

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

PETER GERACE, JR.,

Defendant.

Case No. 1:19-cr-227

1:23-cr-37

(LJV)

December 13, 2024

TRANSCRIPT EXCERPT - EXAMINATION OF LOUIS SELVA - DAY 2  
BEFORE THE HONORABLE LAWRENCE J. VILARDO  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

TRINI E. ROSS, UNITED STATES ATTORNEY

BY: JOSEPH M. TRIPI, ESQ.

NICHOLAS T. COOPER, ESQ.

CASEY L. CHALBECK, ESQ.

Assistant United States Attorneys  
Federal Centre, 138 Delaware Avenue  
Buffalo, New York 14202  
For the Plaintiff

THE FOTI LAW FIRM, P.C.

BY: MARK ANDREW FOTI, ESQ.

16 West Main Street, Suite 100  
Rochester, New York 14614

And

SOEHNLEIN LAW

BY: ERIC MICHAEL SOEHNLEIN, ESQ.

350 Main Street, Suite 2100  
Buffalo, New York 14202  
For the Defendant

PRESENT:

KAREN A. CHAMPOUX, USA PARALEGAL

BRIAN A. BURNS, FBI SPECIAL AGENT

MARILYN K. HALLIDAY, HSI SPECIAL AGENT

OLIVIA A. PROIA, J.D., PARALEGAL

LAW CLERK:

REBECCA FABIAN IZZO, ESQ.

COURT CLERK:

COLLEEN M. DEMMA

REPORTER:

ANN MEISSNER SAWYER, FCRR, RPR, CRR

Robert H. Jackson Courthouse  
2 Niagara Square Buffalo, New York 14202  
Ann\_Sawyer@nywd.uscourts.gov

09:57AM 1 (Excerpt commenced at 9:57 a.m.)

09:57AM 2 (Jury is present.)

09:57AM 3 **THE COURT:** The record will reflect that all our  
09:57AM 4 jurors are present.

09:57AM 5 I remind the witness that he's still under oath.

09:57AM 6 And, Mr. Tripi, you may begin.

09:58AM 7 **MR. TRIPI:** Thank you, Your Honor.

09:58AM 8  
09:58AM 9 **L O U I S S E L V A**, having been previously duly called and  
09:58AM 10 sworn, continued to testify as follows:

09:58AM 11

09:58AM 12 **(CONT'D) DIRECT EXAMINATION BY MR. TRIPI:**

09:58AM 13 Q. All right. Mr. Selva, I want to basically pick up where  
09:58AM 14 we left off, but yesterday I asked you some questions, I want  
09:58AM 15 to kind of follow up on one part.

09:58AM 16 When Mr. Bongiovanni -- yesterday, you testified when  
09:58AM 17 Mr. Bongiovanni instructed you to advise law enforcement that  
09:58AM 18 you were his informant if law enforcement approached you, by  
09:58AM 19 that point in time, had you been involved in your marijuana  
09:58AM 20 distribution activity since approximately 2008?

09:58AM 21 A. Yes, that's correct.

09:58AM 22 Q. And did Mr. Bongiovanni give you that instruction before  
09:58AM 23 your house was searched on August 23rd, 2019?

09:58AM 24 A. Yes.

09:58AM 25 Q. Did he remind you about that again after your house was

09:58AM 1 searched on August 23rd, 2019?

09:58AM 2 A. Yes.

09:58AM 3 Q. And when he was giving you those instructions and those

09:58AM 4 directives, based on conversations and discussions you had

09:58AM 5 had with Mr. Bongiovanni, he knew you were involved in

09:58AM 6 marijuana distribution with others?

09:59AM 7 A. That's correct.

09:59AM 8 Q. Is that a yes?

09:59AM 9 A. Yes, sir.

09:59AM 10 Q. Okay. I want to go backwards in time a little bit to

09:59AM 11 around the year 2001. By that point in time, were you back

09:59AM 12 living in Buffalo, New York, after a stint in Las Vegas?

09:59AM 13 A. Yes.

09:59AM 14 Q. By that point in time in your life, were you going

09:59AM 15 through or about to go through a divorce?

09:59AM 16 A. Around that time, yes. It was starting to proceed.

09:59AM 17 Q. Also around that time in around 2001, did Mr. Bongiovanni

09:59AM 18 return to the Buffalo area after beginning his career as a

09:59AM 19 DEA agent in Florida?

09:59AM 20 A. He did, yes.

09:59AM 21 Q. Okay. By the time Mr. Bongiovanni came back around that

09:59AM 22 2001 timeframe, was he separating from his wife, JoAnn?

09:59AM 23 A. Yes. They were living separately I believe.

10:00AM 24 Q. They were still married?

10:00AM 25 A. They were still married, yes.

10:00AM 1 Q. At that point in time, did Mr. Bongiovanni have a young  
10:00AM 2 daughter named Chelsea?  
10:00AM 3 A. He did, yes.  
10:00AM 4 Q. So, both you and Mr. Bongiovanni are sort of both back in  
10:00AM 5 the Buffalo area by 2001. Would it be accurate to say you  
10:00AM 6 were both going through something similar in your personal  
10:00AM 7 lives?  
10:00AM 8 A. Correct, yes.  
10:00AM 9 Q. Where were you working in 2001?  
10:00AM 10 A. I was a manager in the wireless business for a company  
10:00AM 11 called NexTel.  
10:00AM 12 Q. Okay.  
10:00AM 13 A. And I was also bartending on the weekends.  
10:00AM 14 Q. I need you to keep your voice up.  
10:00AM 15 A. I'm sorry. I was working two jobs, wireless business and  
10:00AM 16 bartending.  
10:00AM 17 Q. Where did you bartend?  
10:00AM 18 A. At that time, Harry's Harbor.  
10:01AM 19 Q. And would Mr. Bongiovanni come visit you while you worked  
10:01AM 20 at Harry's Harbor?  
10:01AM 21 A. Yes.  
10:01AM 22 Q. And was that a restaurant and a bar?  
10:01AM 23 A. It was on the water, yes.  
10:01AM 24 Q. Did you also work with a young lady there named T.O.?  
10:01AM 25 A. Yes.

10:01AM 1 Q. At some point briefly, did you date Ms. T.O.?

10:01AM 2 A. I did, yes.

10:01AM 3 Q. At a later point in life, did you learn that she has  
10:01AM 4 dating or had dated Mr. Gerace?

10:01AM 5 A. I did, yes.

10:01AM 6 Q. When Mr. Bongiovanni would come to Harry's Harbor, would  
10:01AM 7 you and him socialize?

10:01AM 8 A. I would be -- yes, I would serve him drinks, and we would  
10:01AM 9 talk over the bar, yes.

10:01AM 10 Q. When you weren't working, would you go out socially with  
10:01AM 11 Mr. Bongiovanni?

10:01AM 12 A. Yes.

10:01AM 13 Q. Did you and he also join the same gym?

10:01AM 14 A. Yes.

10:01AM 15 Q. Would you work out together as well when you weren't both  
10:01AM 16 working?

10:01AM 17 A. Yes.

10:02AM 18 Q. Were you being kept apprised by Mr. Bongiovanni as to the  
10:02AM 19 nature of his relationship with his wife JoAnn?

10:02AM 20 A. Yes.

10:02AM 21 Q. Eventually, did their separation move towards divorce  
10:02AM 22 proceedings?

10:02AM 23 A. It did.

10:02AM 24 Q. Did Mr. Bongiovanni hire a lawyer?

10:02AM 25 A. He did.

10:02AM 1 Q. From your own personal experience going through your own  
10:02AM 2 divorce around that time, do lawyers cost money?  
10:02AM 3 A. They do.  
10:02AM 4 Q. Did you hear Mr. Bongiovanni complain about how much  
10:02AM 5 money his divorce was costing him around that timeframe?  
10:02AM 6 A. Yes.  
10:02AM 7 Q. What were the kinds of things you heard him say?  
10:02AM 8 A. Child support, maintenance, he was paying maintenance,  
10:02AM 9 alimony, additional expenses. Just the whole cost of it,  
10:02AM 10 just how his expenses have risen.  
10:02AM 11 Q. Was it a frequent topic of conversation?  
10:02AM 12 A. It would be, yes.  
10:03AM 13 Q. Did he make -- did he complain at all about the fact that  
10:03AM 14 his ex-wife didn't work?  
10:03AM 15 A. Yes.  
10:03AM 16 Q. Or at that point, the wife he was -- JoAnn, the wife he  
10:03AM 17 was divorcing?  
10:03AM 18 A. Yes.  
10:03AM 19 Q. What kinds of things did he say about that?  
10:03AM 20 A. She wasn't contributing. He has to pay maintenance, a  
10:03AM 21 higher amount of maintenance or spousal support, whatever  
10:03AM 22 it's called. The whole nut was really falling on him. It  
10:03AM 23 was --  
10:03AM 24 Q. By her not working, or her working very little, did that  
10:03AM 25 increase the amount of payments he would have to make?

10:03AM 1 A. Correct.

10:03AM 2 Q. Was that -- was that basically what he was saying to you?

10:03AM 3 A. Yes.

10:03AM 4 Q. Did he complain about the fact that she had a master's

10:03AM 5 degree and didn't work?

10:03AM 6 A. Yes.

10:03AM 7 Q. Was it a source of frustration, based on your

10:03AM 8 interactions with him?

10:03AM 9 A. Yes.

10:03AM 10 Q. All right. I want to get a little more specific about

10:04AM 11 some of the types of things Mr. Bongiovanni talked about

10:04AM 12 paying for during that time period, okay?

10:04AM 13 A. Okay.

10:04AM 14 Q. About how old was his daughter, Chelsea? Was she a

10:04AM 15 little kid?

10:04AM 16 A. Yes, she's the same age as my younger daughter, so she

10:04AM 17 was maybe -- 2001? Four, five.

10:04AM 18 Q. Okay. And how long was he talking about having to pay

10:04AM 19 for her child support until?

10:04AM 20 A. Well, until she was 21 or graduated college.

10:04AM 21 Q. Did he talk about also having to pay for her private

10:04AM 22 school?

10:04AM 23 A. Yes.

10:04AM 24 Q. Did he talk about having to pay for her medical expenses?

10:04AM 25 A. Yes.

10:04AM 1 Q. At a point in Chelsea's life, were you aware that she had  
10:04AM 2 some medical issues that required more attention?

10:04AM 3 A. Yes, he had mentioned that, yes. What they were, I don't  
10:05AM 4 remember.

10:05AM 5 Q. Do you remember where she was being brought for  
10:05AM 6 treatments?

10:05AM 7 A. I don't.

10:05AM 8 Q. Okay. While he's going through that, did Mr. Bongiovanni  
10:05AM 9 have other financial obligations that you were aware of,  
10:05AM 10 other things he was paying for?

10:05AM 11 A. Yes, he did.

10:05AM 12 Q. What did you know he had to pay for?

10:05AM 13 A. Living expenses, truck payment, expenses for his  
10:05AM 14 daughter. I believe at that time he was -- I don't know if  
10:05AM 15 it was set in stone yet, the amount that he was paying child  
10:05AM 16 support and maintenance, but he was also supporting his  
10:05AM 17 soon-to-be ex wife.

10:05AM 18 Q. Did he also have a truck that he had to pay for?

10:05AM 19 A. He did.

10:05AM 20 Q. What kind of truck did he have at that time?

10:05AM 21 A. It was an Escalade.

10:05AM 22 Q. Cadillac?

10:05AM 23 A. Yes.

10:05AM 24 Q. In terms of his social life as a newly-single man, was he  
10:06AM 25 going out more?



1 A. He was.

2 Q. Does going out to bars and restaurants cost money, in  
3 your life experience?

4 A. It does.

5 Q. While you were going through that, did you go out with  
6 him?

7 A. I did.

8 Q. Eventually, did you and Mr. Bongiovanni use cocaine  
9 together?

10 A. We have.

11 Q. And did he do that with you while he was a DEA agent?

12 A. He did.

13 **MR. TRIPI:** Ms. Champoux, if we can please pull up  
14 Government Exhibit 127? This is in evidence.

15 **BY MR. TRIPI:**

16 Q. Okay. Just for a moment, I'm going to -- I know you see  
17 that on the screen. I'm going to ask some questions before  
18 we turn to the photo, okay?

19 A. Okay.

20 Q. Mr. Selva?

21 A. Yeah, I'm sorry.

22 Q. Do you know an individual named Tom Doctor?

23 A. Yes.

24 Q. What was Tom Doctor's relationship with Joe Bongiovanni?

25 A. They worked together. Tom was a part of the DEA task

10:07AM 1 force.

10:07AM 2 Q. So he was a member of law enforcement?

10:07AM 3 A. He was.

10:07AM 4 Q. Was he also a Buffalo police detective?

10:07AM 5 A. He was.

10:07AM 6 Q. Did you know specifically if he was a narcotics detective

10:07AM 7 at the time?

10:07AM 8 A. I did.

10:07AM 9 Q. Have you done coke with both Mr. Doctor and

10:07AM 10 Mr. Bongiovanni?

10:07AM 11 A. Yes.

10:07AM 12 Q. Where did you do that with them?

10:07AM 13 A. At a cottage in Angola, and --

10:07AM 14 Q. Is that --

10:07AM 15 A. -- and Cabo San Lucas.

10:07AM 16 Q. We'll get to Cabo, but I want to stick with the cottage

10:07AM 17 for a moment. Who had a cottage?

10:07AM 18 A. Mr. Doctor.

10:07AM 19 Q. And where is Angola?

10:07AM 20 A. It's along the -- it's going south, I believe, it's

10:08AM 21 outside of Buffalo. There's bars and cottages, summer

10:08AM 22 cottages up there, on the water.

10:08AM 23 Q. In proximity to the cottages, is there a bar called

10:08AM 24 Mickey Rats?

10:08AM 25 A. There is, yes.

10:08AM 1 Q. Have you been to Mr. Doctor's cottage?

10:08AM 2 A. A few times, yes.

10:08AM 3 Q. Have you been to the bar Mickey Rats?

10:08AM 4 A. Yes.

10:08AM 5 Q. When you would be at Mr. Doctor's cottage and at the bar  
10:08AM 6 Mickey Rats, was that with Mr. Bongiovanni?

10:08AM 7 A. Yes.

10:08AM 8 Q. Was it in that context that at the cottage or in the  
10:08AM 9 Mickey Rats area you used cocaine with them both?

10:08AM 10 A. That's correct.

10:08AM 11 Q. Now, looking at Exhibit 127, you're not in that  
10:08AM 12 particular photo, correct?

10:08AM 13 A. No, I'm not.

10:08AM 14 Q. Do you see Mr. Bongiovanni?

10:08AM 15 A. I do.

10:08AM 16 Q. Can you tap the screen and show the jury where he's  
10:08AM 17 standing? Okay.

10:09AM 18 **MR. TRIPI:** May the record reflect there's a pre-made  
10:09AM 19 circle there already on the individual in the back row far  
10:09AM 20 right blue shirt, the witness placed a temporary mark on that  
10:09AM 21 individual.

10:09AM 22 **BY MR. TRIPI:**

10:09AM 23 Q. Do you see Mr. Doctor? Can you tap the screen and show  
10:09AM 24 us where he is?

10:09AM 25 **MR. TRIPI:** May the record reflect there's a pre --

1 there's a blue circle around that individual's head already on  
2 the photo, but this witness has marked a temporary red dot on  
3 the individual sort of third from the left of the photo  
4 wearing no shirt, with a beer bottle up to his lips, and  
5 sunglasses on.

6 **THE WITNESS:** Correct.

7 **BY MR. TRIPI:**

8 Q. Is that a fair description?

9 A. It is.

10 Q. Okay. And do you see Mr. Gerace in that photo?

11 A. I do, yes.

12 Q. Can you tap the screen and show us where he is?

13 **MR. TRIPI:** May the record reflect he put a temporary  
14 mark on the individual, front row, second male from right,  
15 standing slightly in front of the individual in the blue shirt  
16 that the witness has indicated is Mr. Bongiovanni.

17 **BY MR. TRIPI:**

18 Q. Is that a good description, do you think?

19 A. Yes.

20 Q. Okay. Were you aware that the defendant, in addition to  
21 knowing Mr. Bongiovanni, also knew Tom Doctor?

22 A. Yes.

23 Q. How long had you known Tom Doctor in life?

24 A. Since my 20s, late 20s.

25 Q. So since before -- did you and Mr. Bongiovanni know

10:10AM 1 Mr. Doctor from before he was in law enforcement?

10:10AM 2 A. Yes.

10:10AM 3 Q. On some level, would it be fair to say that you,

10:10AM 4 Mr. Bongiovanni, this defendant, Mr. Doctor, all met in the

10:10AM 5 timeframe of growing up in the Buffalo area?

10:10AM 6 A. Within that timeframe, sure.

10:11AM 7 Q. Okay. All right. Now you indicated Angola was one

10:11AM 8 location where you had used cocaine with Mr. Doctor and

10:11AM 9 Mr. Bongiovanni. We'll talk about it in more detail later.

10:11AM 10 But another location was in Cabo, you said?

10:11AM 11 A. Yes.

10:11AM 12 Q. Cabo San Lucas, is that what you're referencing?

10:11AM 13 A. That's correct.

10:11AM 14 Q. What -- was that in about 2015?

10:11AM 15 A. It was.

10:11AM 16 Q. What was happening there?

10:11AM 17 A. It was Mr. Bongiovanni's wedding. It was a destination

10:11AM 18 wedding.

10:11AM 19 Q. And was Mr. Doctor there?

10:11AM 20 A. He was.

10:11AM 21 Q. Were you there?

10:11AM 22 A. Yes.

10:11AM 23 Q. Was Mr. Bongiovanni there?

10:11AM 24 A. Yes.

10:11AM 25 Q. Was another individual named Tom Napoli there?

10:11AM 1 A. Yes.

10:11AM 2 Q. Okay.

10:11AM 3 **MR. TRIPI:** Ms. Champoux, can we pull up Exhibit 126,  
10:11AM 4 please?

10:11AM 5 **BY MR. TRIPI:**

10:12AM 6 Q. Okay. Do you see Exhibit 126 on the screen here? I'm  
10:12AM 7 just going to get rid of those red dots that were there.

10:12AM 8 A. Yes.

10:12AM 9 Q. Do you see Mr. Bongiovanni in this photo?

10:12AM 10 A. I do.

10:12AM 11 Q. Can you tap the screen and show us where he is?

10:12AM 12 **MR. TRIPI:** May the record reflect the witness placed  
10:12AM 13 a temporary red dot on the male in this picture that is third  
10:12AM 14 from the right, moving right to left.

10:12AM 15 **BY MR. TRIPI:**

10:12AM 16 Q. And do you see Tom Napoli in this picture?

10:12AM 17 A. Yes.

10:12AM 18 Q. Can you place a red dot on him?

10:12AM 19 **MR. TRIPI:** May the record reflect the witness placed  
10:12AM 20 a temporary red dot sort of right in the middle of the face of  
10:12AM 21 an individual he's indicated is Tom Napoli, who the second  
10:12AM 22 going right to left in the photo.

10:12AM 23 **BY MR. TRIPI:**

10:12AM 24 Q. Is Mr. Napoli standing right next to Mr. Bongiovanni in  
10:12AM 25 that picture?

10:12AM 1 A. Yes.

10:12AM 2 Q. And now in Cabo San Lucas, who were the males present

10:13AM 3 when you guys were using cocaine at the destination wedding?

10:13AM 4 A. Myself, Tom, Mr. Bongiovanni, Tom Doctor, and -- that's

10:13AM 5 it.

10:13AM 6 Q. Okay. So you, Mr. Bongiovanni, Tom Doctor, and Tom

10:13AM 7 Napoli?

10:13AM 8 A. Yes.

10:13AM 9 Q. Is that right?

10:13AM 10 A. That's correct.

10:13AM 11 Q. Is that in a hotel room?

10:13AM 12 A. Yes.

10:13AM 13 Q. Was that sort of before a night of partying and drinking?

10:13AM 14 A. Yes.

10:13AM 15 **MR. TRIPI:** Okay. So can we put those 126 and 127

10:13AM 16 next to each other. Can we zoom in on 127? And can we -- is

10:13AM 17 there any way we can split the screen, or no?

10:13AM 18 Too large? Okay. That's fine. Okay. We'll leave

10:13AM 19 it at that. We can take those down.

10:13AM 20 **BY MR. TRIPI:**

10:14AM 21 Q. By 2004, though, was Mr. Bongiovanni -- obviously, he was

10:14AM 22 still working for the DEA; is that right?

10:14AM 23 A. Yes.

10:14AM 24 Q. Did he start dating someone new?

10:14AM 25 A. That, yes, he did.

1 Q. Okay.

2 A. At that time.

3 **MR. TRIPI:** Actually, could we pull up -- I forgot to  
4 do one thing. Pull up 126, 127, and 490A together.

5 Okay. This isn't going to work right now.

6 Let's go to 490 before I move on, sorry about that.

7 They get too small. Can we zoom in on just the photo portion?

8 **BY MR. TRIPI:**

9 Q. In 490A, do you see Tom Napoli?

10 A. I do, yes.

11 Q. Could you tap the screen and show the jury where he is?

12 **MR. TRIPI:** Okay. May the record reflect the witness  
13 placed a temporary red mark on the male who is fourth from the  
14 left, going left to right in the photo.

15 **BY MR. TRIPI:**

16 Q. Do you see the defendant in that photo?

17 A. Yes.

18 Q. Can you tap the screen and show us where he is?

19 **MR. TRIPI:** May the record reflect the witness has  
20 placed a temporary red mark on the defendant, who's about in  
21 the middle of the picture next to Mr. Napoli. He's the fourth  
22 person as you're going right to left.

23 **BY MR. TRIPI:**

24 Q. Do you see T.O. in that photo?

25 A. I do, yes.



1 Q. Can you tap the screen and show us where she is?

2 **MR. TRIPI:** May the record reflect the witness has  
3 placed a temporary red dot on the person who's third, going  
4 right to left across the photo.

5 **BY MR. TRIPI:**

6 Q. Do you see Mr. Bongiovanni in that photo?

7 A. Yes.

8 Q. Can you tap the screen and show the jury where he is?

9 **MR. TRIPI:** May the record reflect he's the person  
10 standing second from right to left in the photo.

11 **BY MR. TRIPI:**

12 Q. And where is Lindsay, Mr. Bongiovanni's eventual wife?

13 A. She's right next to him.

14 **MR. TRIPI:** Okay. We can take that down.

15 Can we pull up Exhibit 426-1 please?

16 These are all in evidence, Judge.

17 **BY MR. TRIPI:**

18 Q. Okay. Another photo, do you recognize the people in this  
19 photo?

20 A. Three of them, yes.

21 Q. Who are the three you recognize?

22 A. Mr. Gerace, Mr. Bongiovanni, and I believe that's  
23 Mr. Bongiovanni's ex-girlfriend, M.U., I'm not sure.

24 Q. Okay. Mr. Bongiovanni's on the far left of that photo?

25 A. Yes.

1 Q. Is the defendant on the far right in the green shirt?

2 A. Yes.

3 Q. And is Mr. Bongiovanni and his girlfriend, who you

4 think's name is M.U., next to him in the photo in the white

5 shirt?

6 A. Yes.

7 Q. In about the year 2004, after Mr. Bongiovanni's divorce

8 proceedings were underway, did he start dating a woman named

9 M.U.?

10 A. Yes.

11 Q. Is that the M.U. that you're referencing in the photo?

12 A. It looks like her, yes.

13 Q. It's been a long time, right?

14 A. Yes, it's been a long time.

15 **MR. TRIPI:** Okay. We can take that down.

16 **BY MR. TRIPI:**

17 Q. As the defendant -- withdrawn.

18 As Mr. Bongiovanni started dating M.U., was he spending

19 money on her as well?

20 A. Yes.

21 Q. What was their social life like?

22 A. Dinners. They traveled. A lot of -- lot of gifts, I

23 remember him telling me about.

24 Q. At a point did they get engaged?

25 A. They did.

10:17AM 1 Q. Did Mr. Bongiovanni buy a wedding ring?

10:18AM 2 A. Yes, he did.

10:18AM 3 Q. Ultimately they didn't get married, right?

10:18AM 4 A. No, they called it off.

10:18AM 5 Q. Did he date Ms. M.U. roughly from 2004 to 2009; is that a

10:18AM 6 decent estimate?

10:18AM 7 A. Yeah, about five years.

10:18AM 8 Q. I'll get into this timeline a little bit more in a

10:18AM 9 moment, but jumping ready just slightly, after Ms. M.U., did

10:18AM 10 Mr. Bongiovanni start dating his current wife, Lindsay?

10:18AM 11 A. Not immediately after, but yes, he did, yes.

10:18AM 12 Q. So his next relationship with someone who you can know

10:18AM 13 the name of is -- is his wife Lindsay?

10:18AM 14 A. Yes.

10:18AM 15 Q. At that point, did Mr. Bongiovanni take on any financial

10:18AM 16 obligations related to his then-girlfriend Lindsay in around

10:19AM 17 the year 2009, 2010?

10:19AM 18 A. He did, yes.

10:19AM 19 Q. And what were those?

10:19AM 20 A. He owned a double in North Buffalo on Lovering, and she

10:19AM 21 was actually his tenant. And then when they started dating,

10:19AM 22 she moved in with him. And she had a son. And -- enrolled

10:19AM 23 in nursing school. And her focus was just going to school,

10:19AM 24 and he would take care of all the living expenses.

10:19AM 25 Q. So basically, to sum it up, he started paying all of

10:19AM 1 Lindsay's bills?

10:19AM 2 A. Correct.

10:19AM 3 Q. And her son's living expenses?

10:19AM 4 A. No, I don't believe so. The father paid child support.

10:19AM 5 Q. Did they -- did son live with Bongiovanni?, is the

10:19AM 6 question.

10:19AM 7 A. Yes.

10:19AM 8 Q. Okay.

10:19AM 9 A. Yes.

10:19AM 10 Q. And did he pay for her schooling, as far as you

10:19AM 11 understood it?

10:19AM 12 A. As far as I understand, he was helping her with expenses.

10:19AM 13 Q. Did that include school?

10:20AM 14 A. Yes. At that time. Yes.

10:20AM 15 Q. Okay. When you would interact with Mr. Bongiovanni, as

10:20AM 16 such good friends, I'm sure you talked about a number of

10:20AM 17 different things --

10:20AM 18 A. Correct.

10:20AM 19 Q. -- in life, right?

10:20AM 20 A. Yes.

10:20AM 21 Q. In those discussions that you'd have with him, did he

10:20AM 22 ever talk about the concept of loyalty to his friends?

10:20AM 23 A. He did, yes.

10:20AM 24 Q. Based on your discussions with him, like, what kinds of

10:20AM 25 things did you hear him say about loyalty?

10:20AM 1 A. Just integrity. You know, trust, trustworthy. Worried  
10:20AM 2 if people were trying to hit on his girlfriend. That type  
10:20AM 3 thing.

10:20AM 4 Q. Did he talk about being loyal to friends?

10:20AM 5 A. Yes.

10:20AM 6 Q. What kinds of things do you remember saying about that?

10:21AM 7 A. Just being there for him. You know, just being honest.  
10:21AM 8 Having someone's back.

10:21AM 9 Q. Okay. Is that a phrase he's used with you before?

10:21AM 10 A. Yes.

10:21AM 11 Q. And he's used that phrase, "having your back," in the  
10:21AM 12 context of you selling drugs; is that right?

10:21AM 13 **MR. SOEHNLEIN:** Objection.

10:21AM 14 **THE COURT:** Basis?

10:21AM 15 **MR. SOEHNLEIN:** I think it runs afoul of --

10:21AM 16 **MR. TRIPI:** I don't think so at all.

10:21AM 17 **THE COURT:** No. No, no. Overruled.

10:21AM 18 **THE WITNESS:** That's correct.

10:21AM 19 **BY MR. TRIPI:**

10:21AM 20 Q. When he knew you were selling drugs, he said he'd have  
10:21AM 21 your back?

10:21AM 22 A. That's correct.

10:21AM 23 Q. Was that him being loyal?

10:21AM 24 A. Yes, sir.

10:21AM 25 Q. That's a different type of integrity than a DEA is

1 supposed to have; would you agree?

2 A. Yes.

3 Q. Okay. So when you say "integrity," you mean loyalty to  
4 friends?

5 A. That's what I meant.

6 Q. Were most of Mr. Bongiovanni's friends ones like you that  
7 he grew up with in the neighborhood and of Italian descent?

8 A. Yes.

9 **MR. TRIPI:** Judge, I have another area I'm going to  
10 go into. I do think I need to come up before I do.

11 **THE COURT:** Okay. Come up.

12 (Sidebar discussion held on the record.)

13 **MR. TRIPI:** So I, Judge, I -- I was going to ask  
14 about discussions about race that he had had with  
15 Mr. Bongiovanni.

16 **THE COURT:** Race?

17 **MR. TRIPI:** Yeah. You didn't let it in with the  
18 Bongiovanni trial because the of 401/403 balancing. I think  
19 that balance weighs differently here.

20 They have a 302 where Mr. Selva has indicated he's  
21 heard Mr. Bongiovanni say the "N" word before in the context  
22 of, sort of, complaints about work. And I think it's  
23 important here because they chose to cross-examine Anthony  
24 Casullo after having this 302 from Selva, they chose to  
25 cross-examination Anthony Casullo about whether anyone else he

1 worked with has talked about Mr. Bongiovanni saying the "N"  
2 word.

3 And so once they chose to cross-examine someone else  
4 about whether the absence of Mr. Bongiovanni using that  
5 language, I think it's fair for us to ask a question to  
6 another witness who has heard that type of language to balance  
7 out that type of cross-examination.

8 And so they had the 302 at -- long ago, while they  
9 were crossing Casullo. And so that's why I want to go into  
10 this area. I think the whole 401/403 balancing is much  
11 different than the Bongiovanni trial.

12 **THE COURT:** Did you -- did you cross-examine  
13 Mr. Casullo on that?

14 **MR. SOEHNLEIN:** I don't know, did you? He did the --

15 **MR. FOTI:** I cross-examined him.

16 **THE COURT:** Did you cross-examine him on --

17 **MR. TRIPI:** The absence of hearing him say that  
18 anyone else saying reporting him saying the "N" word.

19 **THE COURT:** Whether anyone else reported Bongiovanni  
20 saying the "N" word. I don't remember that question.

21 **MR. FOTI:** I -- I don't remember.

22 **MR. COOPER:** Either Kasprzyk or Casullo. A question  
23 might have -- it might have been Kasprzyk. But the question  
24 was asked, you never heard him use racist language, that  
25 100,000 percent was asked on cross-examination, either

1 Kasprzyk or Casullo. And it couldn't -- it couldn't -- I  
2 don't think could have been Casullo, because he did hear him  
3 use racist language.

4 **MR. FOTI:** I -- I don't remember it. But candidly, I  
5 may have asked it in context of having heard him use racist  
6 language with law enforcement, within law enforcement.

7 **THE COURT:** So why --

8 **MR. TRIPI:** Yeah, that's what --

9 **THE COURT:** -- so why wouldn't you have opened the  
10 door for him asking this witness whether he ever heard  
11 Bongiovanni use the "N" word.

12 **MR. FOTI:** Well, if I did ask it, Judge, I was asking  
13 it in terms of whether like -- I was trying to establish that  
14 it's not likely that Mr. Bongiovanni would have used that type  
15 of language to another -- another member of law enforcement,  
16 particularly one that he's not close with.

17 What we're dealing with is a conversation that they  
18 would try to introduce related to language that he used with a  
19 close friend.

20 **THE COURT:** Well, yeah, but you can cross-examine on  
21 it.

22 **MR. SOEHNLEIN:** I'm sorry, Your Honor, just -- my  
23 understanding is what they're trying to show is that  
24 Bongiovanni has some affinity for people of Italian descent --

25 **THE COURT:** Right.



1           **MR. SOEHNLEIN:** -- and has some desire to protect his  
2 friends, and some willingness to not follow DEA protocols or  
3 DEA rules. Which would -- which would not be something that  
4 Selva would be privy to. He was never in the DEA, he was  
5 never an DEA officer, and Kasprzyk and Casullo were. Okay?  
6 And that's their import.

7           To the extent that that cross happened, I don't  
8 recall it either. But to the extent that it did, the import  
9 is here he is at the DEA expressing a view that's  
10 diametrically opposed to the law enforcement regime's mission.  
11 Okay?

12           **THE COURT:** Okay.

13           **MR. SOEHNLEIN:** Selva is not privy to or part of the  
14 DEA. He doesn't know -- I -- I -- even if Bongiovanni's  
15 expressing racist views outside the DEA, there's absolutely no  
16 evidence that influenced the way he would have interacted  
17 within the DEA.

18           The prejudice, however, is clear and extreme, and  
19 almost incurable, you know, given the fact that you have  
20 people --

21           **THE COURT:** The prejudice -- the prejudice to Gerace  
22 is clear? Explain the prejudice to Gerace.

23           **MR. SOEHNLEIN:** The prejudice to Gerace comes from  
24 the fact that they're trying to -- the entire -- the entirety  
25 of their direct exam on Wednesday sought to establish the

1 close relationship between Bongiovanni and Gerace, and that's  
2 something that's been going on throughout the trial.

3 The very first exhibit they introduced was a  
4 photograph from 2004 with Bongiovanni and Gerace, that's the  
5 theme, that's part of the case. They want the jurors to  
6 believe that, in essence, Bongiovanni and Gerace are one and  
7 the same and that, in particular, the racist comment from John  
8 Bongiovanni, it -- not only is it highly prejudicial, but we  
9 know that it's simply -- it's not true.

10 There's no evidence that Gerace has used racist  
11 language. And that's certainly not relevant to any of the  
12 charges that he faces in this indictment.

13 And, so, I think the prejudice is very, very high,  
14 while the probative value is extremely low.

15 **MR. COOPER:** Judge, can I jump in on that?

16 So the reason that the cross was done, the question  
17 was asked did you ever hear Bongiovanni use racist language,  
18 was to attack Casullo's credibility. That's why that question  
19 gets asked. Because Tony Casullo testified he said these  
20 racist things to me.

21 So to cut against Casullo's credibility, they say to  
22 a different witness: You never heard him say racist language,  
23 did you? And that witness said no.

24 The government, I believe, has the ability -- well, I  
25 know we have the ability, and I believe we have the right to

1 rebut that cross-examine that they chose to go down that road  
2 by saying to a different witness: You've heard him say racist  
3 stuff before, right? And that witness will say yes.

4 So they chose to say Tony Casullo's not credible  
5 because nobody else ever heard Bongiovanni -- that creates an  
6 impression in the jury's mind.

7 **THE COURT:** You get to ask him simply: Have you ever  
8 heard him use the "N" word? That's all.

9 **MR. SOEHNLEIN:** Your Honor, may I make a suggestion?

10 **MR. TRIPI:** Can I just ask one followup, Eric? Can I  
11 contextualize it, because it was a very specific context.

12 It was Bongiovanni sort of complaining about  
13 situations at work. So have you heard him about complain  
14 about situations at work, like an arrest situation, you know,  
15 and then he would get kind of elevated and be like that.

16 **THE COURT:** What's your suggestion?

17 **MR. SOEHNLEIN:** Can he just ask him have you ever  
18 heard him use language referring to race, rather than the  
19 specific word.

20 **MR. TRIPI:** That's too watered down. It's not  
21 realistic.

22 **MR. COOPER:** The corroboration comes -- and the  
23 corroboration comes from the word that was used, right?

24 So Tony Casullo says he used the "N" word.

25 **THE COURT:** I think you can ask that. I think you

1 can ask that. And you can ask it in the context for one  
2 question.

3 **MR. TRIPI:** Yeah, I got you.

4 **THE COURT:** One question.

5 (End of sidebar discussion.)

6 **MR. TRIPI:** Can we go up one more second, Judge? I  
7 forgot.

8 (Sidebar discussion held on the record.)

9 **MR. TRIPI:** Judge, I would even ask for you to give a  
10 limiting instruction, that it's only as to Mr. Bongiovanni's  
11 state of mind just to further cabin the -- any prejudice, if  
12 they want.

13 **THE COURT:** What do you mean?

14 **MR. TRIPI:** If Mr. Bongiovanni has ever said the "N"  
15 word, and the answer is yes, you can give a limiting  
16 instruction and say that evidence is only admitted as it  
17 relates to Mr. Bongiovanni's state of mind, it's not -- you  
18 know, if they want something like that.

19 **THE COURT:** You can think about it.

20 **MR. TRIPI:** Yeah, I just thought of it.

21 **MR. SOEHNLEIN:** Well, I -- but I want to think about  
22 it right now. When would you give the limiting instruction if  
23 we ask for it? Would you give it during the charge or you  
24 would give it --

25 **THE COURT:** Right now.

10:29AM 1 **MR. SOEHNLEIN:** Can we just have one second then?

10:29AM 2 **THE COURT:** Yeah.

10:29AM 3 **MR. TRIPI:** And, Judge, obviously it would still be  
10:29AM 4 argued that him stating it corroborates Casullo, but in terms  
10:29AM 5 of --

10:29AM 6 **THE COURT:** I understand. But this relates only to  
10:29AM 7 Mr. Bongiovanni and Mr. Bongiovanni's state of mind, not  
10:30AM 8 Mr. Gerace. It has nothing to do with Mr. Gerace.

10:30AM 9 **MR. COOPER:** That's fine.

10:30AM 10 **MR. SOEHNLEIN:** We don't want it.

10:30AM 11 **THE COURT:** You don't want it? Okay.

10:30AM 12 (End of sidebar discussion.)

10:30AM 13 **MR. TRIPI:** I thought we broke the huddle early,  
10:30AM 14 Judge.

10:30AM 15 **BY MR. TRIPI:**

10:30AM 16 Q. Okay. I want to just ask you a couple more questions  
10:30AM 17 about, sort of, things you discussed with Mr. Bongiovanni.  
10:30AM 18 Just limit your answers to yes or no, okay?

10:30AM 19 A. Okay.

10:30AM 20 Q. When you would talk with Bongiovanni, were there times  
10:30AM 21 when he would tell stories about work and express frustration  
10:30AM 22 about people he's arrested?

10:30AM 23 A. Yes.

10:30AM 24 Q. In that context, have you heard him use the "N" word to  
10:30AM 25 describe black people?

1 A. Not that I recall.

2 Q. Have you heard him use the "N" word to describe black  
3 people?

4 A. Not that I recall, no.

5 **MR. TRIPI:** Okay. Give me a moment.

6 **MR. FOTI:** Judge, can we approach quickly?

7 **THE COURT:** Sure, come on up.

8 (Sidebar discussion held on the record.)

9 **MR. FOTI:** I think if a witness says I don't recall  
10 that, it's not the same as saying I don't remember whether he  
11 did or didn't.

12 I think they're about to refresh recollection on  
13 something that's extremely prejudicial. The answer he gave  
14 was a no.

15 **MR. TRIPI:** It was I don't recall that. And he  
16 said -- he said it in a 302 in August, August 18th, 2024.

17 And he said -- Selva stated Bongiovanni used racial  
18 slurs in conversation with Selva.

19 **THE COURT:** Racial slurs?

20 **MR. TRIPI:** And specifically referred to black  
21 individuals as "N" and Hispanic as "S." And he stated those  
22 slurs -- bottom of 1 and going to page 2.

23 **MR. SOEHNLEIN:** What's the date on that one?

24 **MR. TRIPI:** August 18th, it's A I.

25 **MR. SOEHNLEIN:** A I?

1           **THE COURT:** Have you heard him use the "N" word to  
2 describe black people? Not that I recall, no.

3           **MR. TRIPI:** All right. Well, now I'm going to  
4 impeach him under 607. I can impeach him with an oral  
5 statement. It doesn't come in substantively like a transcript  
6 would, but I can impeach him with an inconsistent statement.

7           **THE COURT:** What part of it is inconsistent?

8           **MR. TRIPI:** His inconsistent statement would be he  
9 has heard it, and he has heard him say it. And so --

10          **THE COURT:** What -- where is the prior inconsistent  
11 statement? (Inaudible).

12          **MR. TRIPI:** Yeah. When you -- when you deny knowing  
13 something --

14          **THE COURT:** Right.

15          **MR. TRIPI:** -- that's an inconsistent statement.

16          **THE COURT:** You can ask him did you tell the police,  
17 and if he says no, you're stuck with it.

18          **MR. TRIPI:** I'm going to ask him more questions  
19 around this for sure.

20          **THE COURT:** You're stuck with it.

21          **MR. TRIPI:** Yeah.

22                   (End of sidebar discussion.)

23          **BY MR. TRIPI:**

24 Q. Now, Mr. Selva, you've testified in two prior proceedings  
25 this year, correct?

1 A. Yes, sir.

2 Q. And in between those two prior proceedings, you also sat  
3 down with the FBI, Special Agent Brian Burns, and others  
4 including myself, correct?

5 A. Correct.

6 Q. And during those meetings, you were being asked questions  
7 about Mr. Bongiovanni; is that right?

8 A. That's correct.

9 Q. And did you tell the FBI in one of those meetings that  
10 Mr. Bongiovanni used the "N" word?

11 **MR. SOEHNLEIN:** Objection.

12 **THE COURT:** Did you tell them that?

13 **THE WITNESS:** Yes, I must have, yes.

14 **THE COURT:** Well, why do you say you must have?

15 **THE WITNESS:** Because I do remember being asked the  
16 question, and I did say yes.

17 **BY MR. TRIPI:**

18 Q. So why, a minute ago, when I asked you did you say no?

19 A. I forgot the timeframe. I --

20 Q. No. I asked you ever. Why did you say no?

21 A. I don't know. I was wrong.

22 Q. Were you being honest a minute ago? Or were you playing  
23 games?

24 **THE COURT:** Let's move on. Let's move on. Let's  
25 move on.



10:35AM 1 **THE WITNESS:** No, I made a mistake.

10:35AM 2 **THE COURT:** Next question.

10:35AM 3 **MR. TRIPI:** All right. So, I need a clear answer to  
10:35AM 4 that, I don't think I got one.

10:35AM 5 **THE COURT:** No, you got the answer, Mr. Tripi. Let's  
10:35AM 6 move on. We're gonna go to another area.

10:35AM 7 Next question.

10:35AM 8 **BY MR. TRIPI:**

10:36AM 9 Q. All right. Does Mr. Gerace own a bar you're aware of?

10:36AM 10 A. Yes.

10:36AM 11 Q. What bar is that?

10:36AM 12 A. Pharaoh's nightclub.

10:36AM 13 Q. What kind of bar is that?

10:36AM 14 A. It's a strip club.

10:36AM 15 Q. Have you been there with Mr. Bongiovanni?

10:36AM 16 A. I have.

10:36AM 17 Q. During what timeframe?

10:36AM 18 A. Right when Mr. Gerace had taken it back over. I believe  
10:36AM 19 there was a falling out he had, and he was now the sole  
10:36AM 20 owner.

10:36AM 21 Q. Was that in the 2014 timeframe?

10:36AM 22 A. I believe so. 2014, '15.

10:36AM 23 Q. Do you remember specifically?

10:36AM 24 A. I don't, but it was that timeframe.

10:37AM 25 **MR. TRIPI:** For the witness only, can we pull up

1 Exhibit 3540U. And I'm going to direct his attention to  
2 page 5.

3 **BY MR. TRIPI:**

4 Q. I'm going to see if we can refresh your recollection as  
5 to the timeframe, okay?

6 A. Okay.

7 Q. Read that to yourself, and when you're done let me know  
8 you've read it.

9 **MR. TRIPI:** Can we zoom in on that, Ms. Champoux, so  
10 it's larger for him, please?

11 **THE WITNESS:** Okay.

12 **BY MR. TRIPI:**

13 Q. Did that refresh your recollection as to the timeframe?

14 A. Yes, sir.

15 Q. What was the approximate timeframe when you went to  
16 Pharaoh's with Mr. Bongiovanni?

17 A. It was around 2013, 2014.

18 Q. And that's an estimate?

19 A. That's an estimate, yes.

20 Q. How many times did you go there?

21 A. Twice.

22 Q. On one of those occasions, was there an interaction  
23 between Mr. Bongiovanni and Mr. Gerace?

24 A. Yes.

25 Q. What was that? Describe that interaction for the jury.

10:38AM 1 A. We had went to Pharaoh's. We were at the bar having a  
10:38AM 2 drink. Mr. Gerace came in, he said hello, and then they  
10:38AM 3 stepped aside and had a two- to three-minute, five-minute  
10:38AM 4 conversation, whatever it was.

10:38AM 5 Q. Did they -- was that a one-on-one conversation between  
10:38AM 6 Mr. Bongiovanni and Gerace?

10:38AM 7 A. Yes, they just talked privately.

10:38AM 8 Q. That was my next question. Did it appear to be a private  
10:38AM 9 conversation between the two of them?

10:38AM 10 A. It did.

10:38AM 11 Q. Were you able to hear what they were saying?

10:39AM 12 A. No, it was loud in there and I was not --

10:39AM 13 Q. How far did they step away from you?

10:39AM 14 A. I was in the middle. To the right, maybe.

10:39AM 15 Q. Did they go to, like, the end of the bar?

10:39AM 16 A. To the end of the bar.

10:39AM 17 Q. When Mr. Bongiovanni -- did he come back over to you  
10:39AM 18 then?

10:39AM 19 A. He did.

10:39AM 20 Q. Did he tell you anything about what he and Mr. Gerace  
10:39AM 21 discussed?

10:39AM 22 A. No. No.

10:39AM 23 Q. Now, your phone number up until the day that your house  
10:39AM 24 was searched on August 23rd, 2019, was it 716-903-1654?

10:39AM 25 A. Yes.

1 Q. Okay.

2 **MR. TRIPI:** Ms. Champoux, can we please pull up  
3 Government Exhibit 358, please.

4 There's going to be some phone records I want you to  
5 look at.

6 **THE WITNESS:** Okay.

7 **MR. TRIPI:** Can you expand it so I can see that  
8 better? Can we move on to Exhibit 359? Sorry.

9 Okay. Within Exhibit 359, can you open the PDF  
10 labeled billed calls 2012, 2013.

11 **BY MR. TRIPI:**

12 Q. All right. First I'd like to go to -- here we go.

13 Do you see on -- I'm showing you page 911 at the bottom  
14 of the screen, it might be 912.

15 Do you see that's a Verizon wireless detail for Peter  
16 Gerace, 716-725-1931?

17 A. Yes.

18 Q. Okay. Do you see above that, May 24th?

19 A. Yes.

20 Q. Is that your phone number, 716-903-1654?

21 A. Yes.

22 Q. And do you see incoming call?

23 A. Yes.

24 Q. Now, you've worked in the wireless industry yourself,  
25 correct?

10:41AM 1 A. Correct.

10:41AM 2 Q. You're familiar with billed call records?

10:41AM 3 A. Correct.

10:41AM 4 Q. So does that indicate there was an incoming call from

10:41AM 5 Mr. Gerace to you on May 24th in the year of 2013?

10:41AM 6 A. Yes.

10:41AM 7 Q. Okay. I'd like to go through some, this was on page 911

10:41AM 8 of the exhibit. I'd like to go to page 1102.

10:41AM 9 Okay. I'd like to direct your attention to an entry on

10:41AM 10 October 1st at 9:07 a.m., right here.

10:42AM 11 A. Yes.

10:42AM 12 Q. Does that indicate that at 9:07 a.m. you called

10:42AM 13 Mr. Gerace for 11 minutes?

10:42AM 14 A. Yes.

10:42AM 15 Q. I think I misspoke on the prior one. They're Peter's

10:42AM 16 records. Where it says "incoming," that would mean you

10:42AM 17 called him, right?

10:42AM 18 A. Yes.

10:42AM 19 Q. Okay. And then when it doesn't say incoming, that would

10:42AM 20 be an indication that he called you?

10:42AM 21 A. Correct.

10:42AM 22 Q. Okay. So I think I misspoke on the prior one.

10:42AM 23 But on this entry, October 1st, 9:07 a.m. Was that your

10:42AM 24 phone number, 716-903-1654?

10:42AM 25 A. Yes, it is.

10:42AM 1 Q. Does that indicate he made an outgoing call to you for  
10:43AM 2 11 minutes?

10:43AM 3 A. Yes.

10:43AM 4 Q. I'd like to move down to 9:24 that same day. Do you see  
10:43AM 5 that there?

10:43AM 6 A. Yes.

10:43AM 7 Q. Is that another call for five minutes?

10:43AM 8 A. Yes.

10:43AM 9 Q. Is that, again, from your number to Mr. Gerace?

10:43AM 10 A. Yes.

10:43AM 11 Q. Okay. Let's go to page 1104. And I'm looking at calls  
10:43AM 12 at 6:34, 6:42, and 6:56.

10:43AM 13 So beginning the 6:32 p.m. call --

10:43AM 14 **MR. TRIPI:** The one right above that, actually. Next  
10:43AM 15 one down. Sorry, you were right.

10:43AM 16 **BY MR. TRIPI:**

10:43AM 17 Q. 6:34 p.m., is that another indication of your phone  
10:43AM 18 number being called by Mr. Gerace?

10:43AM 19 A. Yes.

10:43AM 20 Q. Okay. 6:42 p.m., more call activity, this time you  
10:44AM 21 calling Mr. Gerace?

10:44AM 22 A. Yes.

10:44AM 23 Q. Let's go to 6:56 p.m. Is that an outgoing call from  
10:44AM 24 Mr. Gerace to you?

10:44AM 25 A. Yes.

10:44AM 1 Q. Let's go to October 9th. It's going to be page 1122 at  
10:44AM 2 12:59 p.m. Would that be an outgoing call from Mr. Gerace to  
10:44AM 3 you?  
10:44AM 4 A. Yes.  
10:44AM 5 Q. Let's go to 3:07 p.m. that same day. Would that be  
10:44AM 6 another outgoing call from Mr. Gerace to you?  
10:44AM 7 A. Yes.  
10:44AM 8 Q. Let's go to 3:40 p.m. that same day. Now on page 1123 of  
10:44AM 9 the exhibit, were there two sort of back-to-back calls at  
10:44AM 10 3:40 and 3:43 both incoming to Mr. Gerace from you?  
10:45AM 11 A. There were, yes.  
10:45AM 12 Q. Let's go to page 1131, and a call October 15th at  
10:45AM 13 8:47 a.m. Is that an outgoing call from you to Mr. Gerace?  
10:45AM 14 A. Yes.  
10:45AM 15 Q. Let's go to 9:13 a.m. Outgoing call from Mr. Gerace to  
10:45AM 16 you?  
10:45AM 17 A. Yes.  
10:45AM 18 **MR. TRIPI:** Let's go to page 1132, please.  
10:45AM 19 **BY MR. TRIPI:**  
10:45AM 20 Q. Is there another call at 5:45 p.m.?  
10:45AM 21 A. Yes, there is.  
10:45AM 22 Q. Is that a call from Mr. Gerace to you for about two  
10:45AM 23 minutes?  
10:45AM 24 A. Yes.  
10:45AM 25 Q. Let's go to page -- October 16th at 9:35 a.m., page 1133.

1 Is that an indication of a call from Mr. Gerace to you?

2 A. Yes.

3 Q. Let's go to page 1134 beginning at 4:52 p.m. on

4 October 16th. October 16th from 4:52 p.m. to the call 5:53.

5 Is there a series of incoming calls from you to Mr. Gerace?

6 A. Yes.

7 Q. How many of them do you see there?

8 A. Five.

9 Q. Okay. And then we see page 1134, October 17th at

10 9:37 a.m. Is that an incoming call from Mr. Gerace to you on  
11 that date and time?

12 A. Yes.

13 **MR. TRIPI:** Ms. Champoux, can we go to the 2014, 2015  
14 PDF of this exhibit. And can we go to page 573. And if we  
15 can go to 11/14/2014 at 6:28 p.m.

16 **BY MR. TRIPI:**

17 Q. Is there an incoming call on that date from you to  
18 Mr. Gerace for about two minutes?

19 A. Yes.

20 Q. Okay. Now, during -- during that timeframe, were you  
21 involved in marijuana distribution activity?

22 A. Yes.

23 Q. At some point, did the defendant's younger brother,  
24 Anthony Gerace, become involved with you and the individuals  
25 you were selling marijuana with?



10:48AM 1 A. Yes.

10:48AM 2 **MR. TRIPI:** You can take that down.

10:48AM 3 **BY MR. TRIPI:**

10:48AM 4 Q. What's the defendant's younger brother's name who became  
10:48AM 5 involved in the group you were involved in?

10:48AM 6 A. Anthony.

10:48AM 7 Q. Sometime around -- I want to go backwards a little bit.

10:49AM 8 Sometime around 2009 -- withdrawn.

10:49AM 9 Was there ever a time when Mr. Bongiovanni, while a DEA  
10:49AM 10 agent and while he knew you were involved in marijuana, told  
10:49AM 11 you about a situation where he helped this defendant out with  
10:49AM 12 U.S. Probation?

10:49AM 13 A. Yes.

10:49AM 14 Q. What did Mr. Bongiovanni say?

10:49AM 15 **MR. SOEHNLEIN:** Objection.

10:49AM 16 **THE COURT:** Didn't we argue this?

10:49AM 17 **MR. TRIPI:** Yeah, do you want to --

10:49AM 18 **THE COURT:** Yeah, come on up.

10:49AM 19 (Sidebar discussion held on the record.)

10:49AM 20 **MR. TRIPI:** Can I just chime in? The thing that was  
10:49AM 21 held out, and sorry to bring this up earlier, the thing that  
10:49AM 22 was held out and sort of left open was the unavailability, and  
10:49AM 23 you had asked us to follow up with Mr. Singer and Mr. MacKay,  
10:50AM 24 and we did that. And then we emailed chambers yesterday that  
10:50AM 25 Bongiovanni would, in fact, invoke the Fifth Amendment if

1 called at this trial. And so that was, sort of, out there  
2 still.

3 And so in my mind, Judge, once I had that, I thought  
4 I was okay to proceed. So I apologize for not flagging it for  
5 these guys.

6 **THE COURT:** Me, too. I remember seeing the email,  
7 and so that's --

8 **MR. TRIPI:** Yeah.

9 **THE COURT:** -- what I thought.

10 **MR. SOEHNLEIN:** And so, I mean, that's part of it.  
11 Part of it, too, is we're preserving our record around all  
12 these things.

13 **THE COURT:** Of course. No, no, no, of course. I  
14 just was forgetting that we had put on the record that he's  
15 unavailable. But you're right, I did say only if he's  
16 unavailable.

17 **MR. SOEHNLEIN:** And now candid --

18 **THE COURT:** Do you have a further objection? If he's  
19 unavailable, do you have a further objection?

20 **MR. FOTI:** Yes, Judge. The rules, the Federal Rules  
21 of Evidence I think were just amended December 1st, and it was  
22 actually the unavailable -- a declarant from an unavailable  
23 witness was amended, I think that the Court's still supposed  
24 to consider the totality of the circumstances, including  
25 whether there's any corroboration related to it.

1 I -- I -- I think that it's not dispositive of  
2 whether it's a statement against penal interests if the  
3 witness is unavailable, there's still a sort of general  
4 consideration of whether it's fair to let the evidence in.

5 **MR. SOEHNLEIN:** And, Your Honor --

6 **MR. COOPER:** Judge, there's tons of corroboration  
7 here. Bongiovanni calls Pete Lepiane. Pete has written  
8 reports about conversations saying Bongiovanni is interceding  
9 on Gerace's behalf saying he's a source of information.  
10 Bongiovanni writes a DEA-6 report corroborating this testimony  
11 saying Peter Gerace called me and told me he got in trouble  
12 with probation.

13 There's a world of corroboration.

14 **THE COURT:** Tell me -- tell me, the rule has been  
15 amended. Tell me about the amendment.

16 **MR. FOTI:** So, I -- if you -- Judge, I can pull up  
17 the change. But Peter Lepiane also said that nothing  
18 Mr. Bongiovanni did had any impact.

19 **THE COURT:** Tell me -- tell me rule.

20 **MR. FOTI:** I should have -- I should have had it  
21 ready knowing that this was going to come up, but I -- if you  
22 give me one second, I'll --

23 **MR. TRIPI:** While he's looking for that.

24 **THE COURT:** Why don't we take a break.

25 **MR. TRIPI:** Sure.

10:52AM 1 **THE COURT:** I've got the 11:00. Look at it, we'll  
10:52AM 2 come back in a few minutes.

10:52AM 3 **MR. FOTI:** Yeah.

10:52AM 4 **THE COURT:** It's almost 11:00, take the break and  
10:52AM 5 come back.

10:52AM 6 **MR. TRIPI:** Sounds good.

10:52AM 7 **MR. FOTI:** Thanks.

10:52AM 8 (Sidebar discussion ended.)

10:52AM 9 **THE COURT:** Okay. Folks, we have this legal matter  
10:52AM 10 we need to handle, and I also have another matter that I'm  
10:52AM 11 doing by Zoom at 11:00, so we're going to take a break now.  
10:53AM 12 Probably about 20 minutes or so.

10:53AM 13 Please remember my instructions. Don't talk about  
10:53AM 14 the case, even with each other, and don't make up your mind.

10:53AM 15 And we'll see you back here shortly after 11.

10:53AM 16 (Jury excused at 10:53 a.m.)

10:54AM 17 **THE COURT:** Okay. Mr. Selva, again, you're not to  
10:54AM 18 talk to anybody about your testimony during the break. Okay?  
10:54AM 19 Except your lawyer.

10:54AM 20 Anything we need to do before we break?

10:54AM 21 **MR. TRIPI:** No, Judge.

10:54AM 22 **THE COURT:** Anything from the defense?

10:54AM 23 **MR. FOTI:** No.

10:54AM 24 **THE CLERK:** All rise.

10:54AM 25 (Off the record at 10:54 a.m.)

11:20AM 1 (Back on the record at 11:20 a.m.)

11:20AM 2 (Jury not present.)

11:20AM 3 **THE CLERK:** All rise.

11:20AM 4 **THE COURT:** Please be seated.

11:20AM 5 **THE CLERK:** We are back on the record for the  
11:20AM 6 continuation of the jury trial in case numbers 19-cr-227 and  
11:20AM 7 23-cr-37, United States of America versus Peter Gerace Jr.

11:20AM 8 All counsel and parties are present.

11:20AM 9 **THE COURT:** Okay. Nothing's ever easy. That  
11:20AM 10 telephone conference or Zoom conference took longer than I  
11:20AM 11 expected, and I apologize.

11:20AM 12 So on the impeachment with the prior inconsistent  
11:20AM 13 statement that was not under oath, I think I need to give the  
11:20AM 14 jury a curative instruction on that that it's not being  
11:20AM 15 admitted for the truth of the matter, it's being admitted only  
11:20AM 16 as to the witness's credibility. Because it was not under  
11:20AM 17 oath.

11:20AM 18 If it's under oath, it can be admitted substantively.  
11:20AM 19 If it's not under oath, it can only be admitted to impeach.

11:20AM 20 **MR. TRIPI:** Which -- which statement are we talking  
11:20AM 21 about, Judge?

11:20AM 22 **THE COURT:** We're talking about the "N" and "S."  
11:21AM 23 Bongiovanni's "N" and "S."

11:21AM 24 **MR. TRIPI:** Judge, I thought by the time we got there  
11:21AM 25 that that -- that that was -- his recollection was refreshed

1 essentially.

2           **THE COURT:** No, I don't think so. I think you  
3 impeached him with a prior inconsistent statement, and the  
4 inconsistent statement was not under oath. And so under --  
5 under rule -- whatever it is, 80 -- 801, if it's under oath,  
6 it comes in substantively, if it's not under oath it comes in  
7 as -- and he may have -- and he may have said in addition to  
8 that, that -- he may have changed his answer to the -- to the  
9 question.

10           **MR. TRIPI:** That's my understanding of the testimony.

11           **THE COURT:** Fine.

12           **MR. TRIPI:** Okay.

13           **THE COURT:** But I do think that we do the curative  
14 instruction.

15           **MR. FOTI:** Yeah. And I think he -- I could be wrong,  
16 I think he said yes, I remember being asked -- me talking  
17 about that. I don't think he changed, I think it was just  
18 strictly in context of impeachment.

19           **THE COURT:** No, no.

20           **MR. TRIPI:** I do want an opportunity then, I  
21 understand the curative instruction. But if there's some  
22 ambiguity, I want an opportunity to circle back. Because now  
23 he's acknowledged he said it in a prior situation, I want to  
24 now make it clear that that's his testimony in court if that  
25 has now refreshed his recollection. I thought that that

1 became -- it became bifurcated during the exchange, and so I  
2 don't want to run afoul of the Court telling me to move on,  
3 but if there's some ambiguity there, I want it clear so that  
4 when Mr. Cooper is arguing that it also impacts the  
5 credibility of another witness --

6 **THE COURT:** Let's take a look.

7 **MR. TRIPI:** Okay.

8 **THE COURT:** Let's take a look.

9 Annie, do you know where it is?

10 **MR. TRIPI:** That exchange with Mr. Selva after the  
11 conference at the bench regarding the N word.

12 **THE COURT:** Okay. I got it. Yeah, he does say I was  
13 wrong.

14 **MR. TRIPI:** Mr. Cooper is free to then make that  
15 argument as it relates to credibility that Mr. Bongiovanni has  
16 said it before.

17 **THE COURT:** I think that's probably right, but so  
18 think I still give the curative instruction.

19 **MR. TRIPI:** I think that's fine, Judge. But I don't  
20 want you to then --

21 **THE COURT:** No, I'm not.

22 **MR. TRIPI:** -- hamstring Mr. Cooper when he's trying  
23 to argue it later.

24 **THE COURT:** I'm not going to preclude him. And I  
25 think the defense can argue that he was equivocal or whatever,

1 and the jury can remember what it remembers.

2 **MR. TRIPI:** That's fine.

3 **THE COURT:** But I do think I need to give the  
4 curative instruction, because the impeachment with a prior  
5 inconsistent statement was with a prior inconsistent statement  
6 that was not under oath. Okay?

7 **MR. TRIPI:** I understand that.

8 **THE COURT:** Okay. Good.

9 Mr. Foti, did you find the new rule?

10 **MR. FOTI:** Yeah. Yes, Judge. And I apologize for  
11 not having it ready earlier.

12 **THE COURT:** No, that's okay.

13 **MR. FOTI:** I said two days ago when something goes  
14 wrong, it's me. And that's once again the case.

15 **MR. SOEHNLEIN:** That's not true, Judge.

16 **MR. FOTI:** Rule 804(b)(3)(B) --

17 **THE COURT:** Okay. Hang on. Let me find the old  
18 version, which I think I have here --

19 **MR. FOTI:** Sure.

20 **THE COURT:** -- at my desk. 804 --

21 **MR. FOTI:** (b), which is the exceptions.

22 Then subdivision (3) is statements against interests.

23 **THE COURT:** Yep.

24 **MR. FOTI:** And then sub (B) under that is --

25 **THE COURT:** Yep.



11:24AM 1 **MR. FOTI:** -- the portion that was -- was amended  
11:24AM 2 about two weeks ago.

11:24AM 3 The amended version of the rule reads: If offered in  
11:24AM 4 a criminal case, as one that tends to expose the declarant to  
11:24AM 5 criminal liability is supported by corroborating circumstances  
11:24AM 6 that clearly indicate its trustworthiness --

11:25AM 7 And then this is where there's a modification.

11:25AM 8 -- after considering the totality of circumstances  
11:25AM 9 under which it was made and any evidence that supports or  
11:25AM 10 undermines it.

11:25AM 11 So, it's -- it's specific. It just sort of clears up  
11:25AM 12 language that the Court before admitting an unavailable  
11:25AM 13 witness in a statement of -- against penal interests, there is  
11:25AM 14 this additional consideration of the totality of the  
11:25AM 15 circumstances. And the totality of circumstances is language  
11:25AM 16 that was specifically added, and --

11:25AM 17 **THE COURT:** So tell me why the totality of the  
11:25AM 18 circumstances should change this.

11:25AM 19 **MR. FOTI:** So there's been a rule that says the  
11:25AM 20 Court's to consider evidence including evidence that  
11:25AM 21 undermines the statement.

11:25AM 22 **THE COURT:** Yeah.

11:25AM 23 **MR. FOTI:** The evidence that undermines the  
11:25AM 24 statement, the statement is Mr. Lepiane was just cited by the  
11:25AM 25 government as corroborating evidence, but that's -- that's not

1 my recollection.

2 My recollection is Mr. Lepiane, at trial, consistent  
3 the prior statements he's made, has always been consistent  
4 that Mr. Bongiovanni had no impact on Mr. Gerace. He didn't  
5 get him out of trouble, he didn't help him, he didn't have any  
6 impact on the decision that was made of how to impose a  
7 sanction.

8 **THE COURT:** Okay. So what's the question you want to  
9 ask, Mr. Tripi?

10 **MR. COOPER:** Judge, can I just respond briefly to  
11 that? It's not the right analysis about whether it impacted  
12 Lepiane or not. What matters is was Bongiovanni trying to  
13 impact Mr. Lepiane.

14 **THE COURT:** Mr. Cooper, I -- if you let me do it my  
15 way, I know that. I -- I -- I recognize that. Which is why I  
16 asked Mr. Tripi what's the question he wants to ask.

17 **MR. TRIPI:** I just want to get it right.

18 **THE COURT:** Because the question he asks is did he  
19 intervene in a way that helped Mr. Gerace, that may be a  
20 different analysis than did he intervene to help Mr. Gerace.

21 **MR. TRIPI:** I think the question I asked, as least as  
22 I have it written here, is -- but I think this is what I  
23 asked, is: What, if anything, did the defendant ever tell you  
24 about Peter Gerace, Pharaoh's, and a situation involving  
25 U.S. Probation?

11:26AM  
11:26AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Just to focus him on that.

So, it was a broad question. What did Mr. Bongiovanni tell you. And I anticipate the response will be, in sum and substance, he -- at the prior trial, he testified, he told me Peter got violated, he stepped in to help him with U.S. Probation.

In a prior -- in a prior report, the way he -- at least it's documented him saying is he helped Peter stay out of jail when he got in trouble with probation.

So there's some variation in the two ways he described it.

**THE COURT:** Helped him stay out of jail may be different.

**MR. TRIPI:** Yeah.

**THE COURT:** Yeah.

**MR. TRIPI:** So I don't know what exact verbiage we're gonna get here, but I -- I think that's the range of answers.

**THE COURT:** Well, do you want to try to lead a little bit?

**MR. TRIPI:** Sure, I can do that, Judge.

And I just think that to the extent the rule changed a week ago, I don't think that changed the rule in the 2nd Circuit.

**THE COURT:** Well, I don't think it -- it does not change my analysis here.

11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:27AM  
11:28AM  
11:28AM  
11:28AM  
11:28AM  
11:28AM  
11:28AM  
11:28AM  
11:28AM  
11:28AM  
11:28AM  
11:28AM  
11:28AM  
11:28AM  
11:28AM  
11:28AM  
11:28AM  
11:28AM  
11:28AM  
11:28AM  
11:28AM  
11:28AM  
11:28AM  
11:28AM

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**MR. TRIPI:** Okay.

**THE COURT:** I mean, it -- it -- it fine tunes my analysis here --

**MR. TRIPI:** Yeah.

**THE COURT:** -- but it doesn't cause me to reach a different conclusion. I understand what you're saying.

**MR. FOTI:** Well, and I'm generally -- I think I'm on the same page, as well. I think if the answer is about Mr. Bongiovanni attempted to intervene in some way, I do think the evidence corroborates the point that there was some intervention.

**THE COURT:** Yeah, great.

**MR. FOTI:** But it's different from --

**THE COURT:** Did it work?

**MR. FOTI:** Yeah. Did he -- did he help him stay out of jail is a different thing.

**THE COURT:** Yeah. And I don't think either -- and I don't think anyone's trying to get there.

**MR. TRIPI:** I may not have written the whole quote from the prior trial, because I have some dot dot dots. So, but --

Ms. Champoux, can we pull up -- just for -- just so we can see what it was?

**THE COURT:** Go ahead.

**MR. TRIPI:** I want to be -- can we pull up 3540AG at

1 page 72, just because I didn't write the full quote from the  
2 trial in my notes here. Just so we can see what he said at  
3 the prior trial.

4 All right. What, if anything, did the defendant ever  
5 tell you about Gerace, Pharaoh's nightclub, and --

6 So it's the exact same question I asked at the last  
7 trial.

8 His full answer was: He told me that Peter had  
9 gotten violated, something had happened at the club, and  
10 he stepped in to help him out. He reached out, I believe, to  
11 probation. And I believe Peter was looking at going back  
12 to -- he was released from federal custody, I believe he did  
13 four months or whatever.

14 It was six months, so I'll have to curate that a  
15 little bit.

16 **THE COURT:** Yeah. So why don't you just ask him the  
17 first part of it. You know, did he tell you about the fact --  
18 that first question. And then follow up with, did he tell you  
19 that he intervened to help him when he got violated by  
20 probation? Something like that.

21 **MR. SOEHNLEIN:** That's -- I think that's fine with  
22 us, Judge.

23 **THE COURT:** Okay.

24 **MR. SOEHNLEIN:** But as long as we're here, I sense  
25 that the next question then is going to be about the Anthony

Gerace comment, which I think there's a different analysis in terms of totality of the circumstances than with -- with respect to the Peter Gerace.

**THE COURT:** What's the Anthony Gerace question?

**MR. TRIPI:** Have you ever discussed with Bongiovanni any assistance he provided Anthony Gerace to get out of trouble.

And he's going to explain yes, that -- that Peter asked -- Bongiovanni said Peter asked him to essentially step in when Anthony got in trouble with the Amherst Police Department.

**MR. SOEHNLEIN:** I --

**MR. FOTI:** Judge, my understanding is there's not really any corroboration of that at all. Not just in this trial, but in general. And part of this --

**THE COURT:** Well, but it doesn't have to corroboration, does there? It's -- the question -- the rule that you just read to me says is there -- considering the totality of the circumstances, is it -- is it reliable, and is there any reason to doubt it.

**MR. FOTI:** Yeah.

**THE COURT:** What reason do I have to doubt it?

**MR. FOTI:** An arrest of Mr. Gerace at the Amherst Police Department is something that should easily be documented and could be supported by some type of evidence, I

1 don't think there is any.

2 I think -- and I -- at some point we talked to  
3 Mr. Bongiovanni's attorneys about it, and they had said that  
4 this was -- was discussed more -- I don't know if it was  
5 during the course of trial or as part of their prep, but they  
6 said consistently their read on it was there was nothing to  
7 back up that this ever occurred at well.

8 **MR. SOEHNLEIN:** Yeah. And more to the point, Judge,  
9 not that this is, you know, anything that would necessarily  
10 come out in court, but from reading the documents, Mr. Selva's  
11 arrested in 2019, he doesn't report that comment until  
12 September of 2023 to law enforcement.

13 **THE COURT:** Well, you can cross-examine with that.  
14 Go ahead.

15 **MR. TRIPI:** So, Judge --

16 **THE COURT:** What do you have?

17 **MR. TRIPI:** -- what I have on that is, first, there  
18 wouldn't be an arrest if Mr. Bongiovanni stepped in in  
19 sufficient time to kill an arrest, right?

20 But in terms of -- the 2nd Circuit has long held --  
21 this United States versus Saggett, that circumstances  
22 indicating trustworthiness include where the statement was  
23 made to a person whom the declarant believes an ally.

24 I don't think there's any question that Bongiovanni  
25 at the time he said that would have believed Lou Selva and him

1 are on the same team. You know? So there's a circumstance  
2 indicating trustworthiness.

3 So it's not just is it do you have corroboration,  
4 there are a number of different circumstances that can  
5 indicate trustworthiness.

6 Another is, does the declarant represent an attempt  
7 to shift blame? No, he's taking credit for helping Anthony  
8 get out of trouble. Which, again, that lends to the exception  
9 and believability, an indicator of trustworthiness.

10 **THE COURT:** Tell me -- tell me -- tell me how it's a,  
11 I guess, against penal interests, he's --

12 **MR. TRIPI:** He's a DEA agent.

13 **THE COURT:** Yeah, he shouldn't be doing --

14 **MR. TRIPI:** And although the jury doesn't know it,  
15 you know under 104 you can consider all the proffers that --  
16 it's in the context when Selva and Bongiovanni are in a  
17 conspiracy.

18 **THE COURT:** Yeah.

19 **MR. FOTI:** Judge, it's a -- even if he killed an  
20 arrest somehow, which we're totally speculating on because  
21 there's nothing to back that up other than this statement --

22 **MR. COOPER:** Two trials.

23 **MR. FOTI:** -- there's typically going to be some  
24 documentation of an interaction with an individual. Even if  
25 the arrest itself isn't documented, there's police reports



1 documenting interactions.

2 **THE COURT:** I think it comes in. I think it comes  
3 in. I think it can come in, in very general terms that he  
4 stepped in to try to help.

5 **MR. COOPER:** That Peter asked, that --

6 **THE COURT:** That Peter asked him to step in to try  
7 help Anthony, when Anthony got jammed up with something.

8 Yeah. I think that can come in. But it's got to be  
9 pretty general, and in and out.

10 **MR. TRIPI:** Okay.

11 **THE COURT:** Okay. Anything else before we resume?

12 **MR. COOPER:** Judge, Special Agent Burns mentioned to  
13 me, and I think it's a good idea, that maybe at some point  
14 today it would be wise for you to let the jury know kind of  
15 where we're looking scheduling-wise, because Christmas is  
16 coming up, and kind of give them an idea of when we think  
17 we're gonna --

18 **THE COURT:** Okay. Yeah. I hate to get people's  
19 hopes up, but --

20 **MR. COOPER:** Well, it doesn't look like it's gonna be  
21 pre-Christmas at this point.

22 **THE COURT:** Yeah, I guess that's true. Okay. Yeah,  
23 let me -- let me -- I'll try to figure out something to say  
24 maybe right after our lunch break.

25 **MR. TRIPI:** Is there a way that we can leave this up

1 just for the attorneys for a moment, just so I can get where  
2 I'm gonna stop? Or I can go get the hardcopy. I don't want  
3 to cause too many problems.

4 **THE COURT:** Yeah, just leave it up, but don't put it  
5 up for the jury.

6 **THE CLERK:** Yeah, I turned off the witness display.

7 **MR. TRIPI:** Okay. Great.

8 **THE COURT:** Anything else?

9 **MR. TRIPI:** No.

10 **MR. SOEHNLEIN:** No.

11 **THE COURT:** Let's bring them back. We're just going  
12 to go for a half an hour now.

13 (Jury seated at 11:35 a.m.)

14 **THE COURT:** Okay. So it was just pointed out to me  
15 that number 12 is wearing a Patriots jersey, I'm surprised he  
16 doesn't have a paper bag over his head this season.

17 The record will reflect that all our jurors are again  
18 present.

19 I remind the witness that he's still under oath.

20 Before you continue, Mr. Tripi, let me tell the jury  
21 something about --

22 You can sit down, Mr. Selva.

23 **THE WITNESS:** Okay.

24 **THE COURT:** Before you begin, Mr. Tripi, let me tell  
25 the jury something about some questions and answers that were

1 just a few minutes ago.

2 So you remember that Mr. Tripi called to the  
3 witness's attention a prior statement that he had made to  
4 investigators about whether Mr. Bongiovanni had used the "N"  
5 word or other racial terms. That was admitted only for you to  
6 assess Mr. Selva's credibility, it's not being admitted --  
7 again, this is one of those things that's not being admitted  
8 for the truth of it.

9 So whether Mr. Bongiovanni, in fact, used the racial  
10 terms that he was -- that the witness was asked about, the  
11 truth of that is not in front of you based on that question  
12 about whether he said that to police investigators earlier,  
13 okay? That's only for you to assess this witness's  
14 credibility with respect to that and anything else. Okay?  
15 Got it? Great.

16 Mr. Tripi, you may continue.

17 I remind the witness he's still under oath.

18 **THE WITNESS:** Yes, Your Honor.

19 **BY MR. TRIPI:**

20 Q. Okay. I -- I turned to another topic before the break  
21 there, so I'm going to start there, okay?

22 Yes or no to this question: Did Mr. Bongiovanni ever  
23 tell you anything about this defendant, Mr. Gerace, Pharaoh's  
24 nightclub, and a situation involving U.S. Probation? Yes or  
25 no?

11:37AM 1 A. Yes.

11:38AM 2 Q. Okay. Did Mr. Bongiovanni tell you that this defendant  
11:38AM 3 had gotten violated by U.S. Probation, that something  
11:38AM 4 happened at Pharaoh's, and that Mr. Bongiovanni stepped in to  
11:38AM 5 help this defendant out?

11:38AM 6 A. Yes.

11:38AM 7 **MR. TRIPI:** You can take that down, Ms. Champoux,  
11:38AM 8 thank you.

11:38AM 9 **BY MR. TRIPI:**

11:38AM 10 Q. In approximately 2015, did you discuss with  
11:38AM 11 Mr. Bongiovanni some assistance that he provided to Anthony  
11:38AM 12 Gerace, to help Anthony Gerace get out of trouble? Yes or  
11:38AM 13 no.

11:38AM 14 A. Yes.

11:38AM 15 Q. Did Mr. Bongiovanni -- did that come up in the context of  
11:38AM 16 discussing both Mr. Gerace -- Anthony Gerace and this  
11:39AM 17 defendant, was there a discussion that involved the topic of  
11:39AM 18 both of them at some point?

11:39AM 19 A. Yes.

11:39AM 20 Q. Did Mr. Bongiovanni tell you that this defendant reached  
11:39AM 21 out to him asking Mr. Bongiovanni to step in on Anthony's  
11:39AM 22 behalf when Anthony got in trouble with the Amherst Police  
11:39AM 23 Department?

11:39AM 24 A. Yes.

11:39AM 25 Q. Did Mr. Bongiovanni in that discussion indicate to you

11:39AM 1 that he did step in?

11:39AM 2 A. He did.

11:39AM 3 Q. Did he indicate to you that he told whoever at Amherst

11:39AM 4 police that Anthony Gerace was a cooperator?

11:39AM 5 A. Yes, that's what he said.

11:39AM 6 Q. At the time you had this discussion with Mr. Bongiovanni,

11:39AM 7 was Mr. Anthony Gerace involved with you and others that you

11:39AM 8 were involved with selling marijuana?

11:39AM 9 A. Yes. At that time, yes.

11:40AM 10 Q. During the course of their relationship, meaning

11:40AM 11 Mr. Gerace and Mr. Bongiovanni, were you aware of any trips

11:40AM 12 they took together?

11:40AM 13 A. Yes.

11:40AM 14 Q. Where -- where were you aware that they went together?

11:40AM 15 A. Las Vegas, New York, Toronto, I think. Niagara Falls.

11:40AM 16 Possibly Florida. But they traveled.

11:40AM 17 Q. Were you aware of Mr. Bongiovanni attending Gerace's

11:40AM 18 parents' 50th anniversary?

11:40AM 19 A. Yes, he told me he did, yes.

11:40AM 20 Q. Did your parents have a 50th anniversary?

11:40AM 21 A. Yes.

11:40AM 22 Q. Did Mr. Bongiovanni attend their anniversary?

11:40AM 23 A. No.

11:40AM 24 Q. Is that a reason you remember that he attended

11:40AM 25 Mr. Gerace's parents' anniversary?

11:40AM 1 A. Yeah. Yes.

11:41AM 2 Q. Did Mr. Bongiovanni like nice things, based on your

11:41AM 3 experiences with him?

11:41AM 4 A. Yes.

11:41AM 5 Q. Based on your observations, did he like going out for

11:41AM 6 nice dinners?

11:41AM 7 A. Yes.

11:41AM 8 Q. Did he like nice clothes?

11:41AM 9 A. Yes.

11:41AM 10 Q. And did he and Lindsay, his wife, like to travel?

11:41AM 11 A. Yes.

11:41AM 12 Q. Do those things cost money?

11:41AM 13 A. Yes.

11:41AM 14 Q. When you would use cocaine with Mr. Bongiovanni, did he

11:42AM 15 ever express to you why he was willing to use cocaine but not

11:42AM 16 marijuana? Just yes or no first.

11:42AM 17 A. Yes.

11:42AM 18 Q. What did he say in that regard?

11:42AM 19 A. He said that cocaine stays in your system for lesser

11:42AM 20 amount of time. And if you flush it out from working out and

11:42AM 21 drinking a lot of water, it's not detectable if you were to

11:42AM 22 take a test, where marijuana stays in your system 30 days or

11:42AM 23 so.

11:42AM 24 Q. Do you know an individual named Paul Francoforte, also

11:42AM 25 known as Hot Dog?

11:42AM 1 **MR. SOEHNLEIN:** Objection. Relevance.

11:42AM 2 **THE COURT:** Does he know? I'll allow that.

11:42AM 3 **MR. TRIPI:** And I'll -- the relevance will become  
11:42AM 4 clear.

11:42AM 5 **THE COURT:** Go ahead.

11:42AM 6 **BY MR. TRIPI:**

11:42AM 7 Q. Do you know?

11:42AM 8 A. Yes.

11:42AM 9 Q. At some point, was Mr. Francoforte associated with a  
11:42AM 10 restaurant on the corner of Hertel and Starin called Boss?

11:43AM 11 A. Yes.

11:43AM 12 **MR. TRIPI:** Can we pull up Exhibit 310AT, I think  
11:43AM 13 record number 20.

11:43AM 14 **THE COURT:** Is this --

11:43AM 15 **MR. TRIPI:** This is in evidence in this case, yes.

11:43AM 16 You passed it. Go up a little bit, please. Top of  
11:43AM 17 page 9, Ms. Champoux.

11:43AM 18 Okay. Can we zoom in on the top of page 9, that box  
11:43AM 19 there?

11:43AM 20 **BY MR. TRIPI:**

11:43AM 21 Q. Do you see a first name there?

11:43AM 22 A. Yes.

11:43AM 23 Q. What's that say?

11:44AM 24 A. Pauly.

11:44AM 25 Q. Do you see a last name?

11:44AM 1 A. Yes. Hot Dog.

11:44AM 2 Q. And is Hot Dog that individual's nickname?

11:44AM 3 A. Yes.

11:44AM 4 Q. Do you know that individual to be Paul Francoforte?

11:44AM 5 A. Yes.

11:44AM 6 Q. And do you see a phone number there?

11:44AM 7 A. Yes.

11:44AM 8 Q. What's that number?

11:44AM 9 A. 716-866-2687.

11:44AM 10 Q. And is this the individual we talked about, Pauly

11:44AM 11 Francoforte, Hot Dog, is that a person who was friends with

11:44AM 12 Mr. Bongiovanni and associated with Boss Restaurant?

11:44AM 13 A. Yes.

11:44AM 14 **MR. TRIPI:** We can take that down.

11:45AM 15 **BY MR. TRIPI:**

11:45AM 16 Q. When Mr. Bongiovanni gave you directives and instructions

11:45AM 17 regarding telling law enforcement you were his C.I. if they

11:45AM 18 ever came to ask you questions, was that done face to face?

11:45AM 19 A. Yes.

11:45AM 20 Q. Did you and he discuss the importance of having those

11:45AM 21 types of discussions face to face?

11:45AM 22 A. Yes.

11:45AM 23 Q. Why was it important to you to have those types of

11:45AM 24 discussions face to face with Mr. Bongiovanni?

11:45AM 25 A. Not to talk over the phone, and to just get direction



11:45AM 1 from him.

11:45AM 2 Q. Can you elaborate? To not talk on the phone, was there a

11:45AM 3 concern about law enforcement tactics?

11:45AM 4 A. Yes, obviously surveillance, tapping the phones.

11:45AM 5 Q. Do you mean? Like, a wiretap?

11:45AM 6 A. Like a wiretap.

11:45AM 7 Q. Is that something where you feared people could listen to

11:45AM 8 your conversations?

11:45AM 9 A. Yes.

11:45AM 10 Q. Where would you typically meet with Mr. Bongiovanni to

11:45AM 11 have those types of discussions?

11:45AM 12 A. Various places on Hertel. We'd meet at a bar.

11:45AM 13 Q. Did you go to his house?

11:45AM 14 A. Or his house, yes.

11:46AM 15 Q. Have you spoken in parks with him?

11:46AM 16 A. Parks, yes. We've taken walks.

11:46AM 17 Q. Okay. Earlier sort of near the beginning of your

11:46AM 18 testimony, we talked about Mr. Bongiovanni getting married in

11:46AM 19 Cabo San Lucas in February of 2015; do you recall that?

11:46AM 20 A. I do.

11:46AM 21 Q. Couple months before that, sort of in the lead-up to the

11:46AM 22 wedding, was there a stag party held for Mr. Bongiovanni?

11:46AM 23 A. There was.

11:46AM 24 Q. Is that sort of, like, the bachelor party?

11:46AM 25 A. Yes.

11:46AM 1 Q. Where was that party held?

11:46AM 2 A. In the Cobblestone District, in Iron Works. It's a

11:46AM 3 bar/restaurant.

11:46AM 4 Q. And for those not from the Buffalo area, is the

11:46AM 5 Cobblestone District sort of near where the arena is where

11:46AM 6 the Buffalo Sabres play?

11:46AM 7 A. Exactly.

11:46AM 8 Q. And was Iron Works a bar down there?

11:47AM 9 A. Yes.

11:47AM 10 Q. And who arranged the location of the stag party?

11:47AM 11 A. I did.

11:47AM 12 Q. And were you involved -- were you involved handing out

11:47AM 13 tickets?

11:47AM 14 A. Yes.

11:47AM 15 Q. Were others, as well?

11:47AM 16 A. Yes.

11:47AM 17 Q. I want to ask you about some of the names of some of the

11:47AM 18 people who were at the stag party, okay?

11:47AM 19 A. Okay.

11:47AM 20 Q. Was that individual whose photo we looked at earlier, Tom

11:47AM 21 Napoli, was he there?

11:47AM 22 A. Yes.

11:47AM 23 Q. You were there, obviously?

11:47AM 24 A. Yes.

11:47AM 25 Q. Was an individual named Mike Masecchia there?

11:47AM 1 A. Yes.

11:47AM 2 Q. Was this defendant there?

11:47AM 3 A. Yes.

11:47AM 4 Q. Was Tom Doctor, whose photo we looked at earlier, there?

11:47AM 5 A. Yes.

11:47AM 6 Q. Was -- do you know whether Agent Bongiovanni's partner,

11:48AM 7 Joe Palmieri, was there?

11:48AM 8 A. I believe he was, yes.

11:48AM 9 Q. Was an individual named Wayne Anderson there?

11:48AM 10 A. Yes.

11:48AM 11 **MR. TRIPI:** Can we pull up Exhibit 310AT, again,

11:48AM 12 please? I'd like to work -- this is in evidence. And let's

11:48AM 13 stop on the first page there.

11:48AM 14 **BY MR. TRIPI:**

11:48AM 15 Q. Do you see where it says forensic examination report?

11:48AM 16 Can you read what it says after case number?

11:48AM 17 A. Peter George Gerace.

11:48AM 18 **MR. TRIPI:** Okay. Let's go to the first page of

11:48AM 19 that, Ms. Champoux. Or, I'm sorry, the first page of the

11:48AM 20 contacts.

11:48AM 21 **BY MR. TRIPI:**

11:48AM 22 Q. All right. Regarding number 2, do you see name there

11:48AM 23 that says Jeff Anzalone with a phone number?

11:48AM 24 A. Yes.

11:48AM 25 Q. Okay. Record number 3, do you see an entry there for

1 Wayne Anderson with a phone number?

2 A. Yes.

3 **MR. TRIPI:** Okay. Let's go to the next page,

4 Ms. Champoux. Let's go to page 6.

5 **BY MR. TRIPI:**

6 Q. Record 9, do you see a name Chris Chudy at the bottom?

7 A. Yes, I do.

8 Q. If we can go to page 7 now. Do you see under record 10 a

9 name that's entered as Jessica Charm?

10 A. Yes.

11 **MR. TRIPI:** Can you scroll down to the next page for

12 now, Ms. Champoux? Stop there. I need to hover between the

13 two pages.

14 **BY MR. TRIPI:**

15 Q. Do you see a first name and a last name under record

16 number 13 there for Tommy Doctor?

17 A. Yes.

18 Q. Is that the person we looked at in the photo earlier, in

19 the photo that had Mr. Gerace, Mr. Bongiovanni, and the

20 individual with the shirt off drinking a beer?

21 A. It is, yes.

22 **MR. TRIPI:** Can we keep scrolling for now.

23 **BY MR. TRIPI:**

24 Q. Okay. We're now on page 9. We talked about Pauly

25 Hot Dog, right?

11:50AM 1 A. Yes.

11:50AM 2 **MR. TRIPI:** Okay. Let's keep scrolling. Keep going.

11:50AM 3 **BY MR. TRIPI:**

11:50AM 4 Q. So there, do you see under record 20 a name, Mike  
11:50AM 5 Masecchia?

11:50AM 6 A. Yes.

11:50AM 7 Q. Okay. Under there, record 21, do you see a name Sue  
11:50AM 8 Michalski?

11:50AM 9 A. Yes.

11:50AM 10 **MR. TRIPI:** Okay. Keep scrolling.

11:50AM 11 **BY MR. TRIPI:**

11:50AM 12 Q. Under record number 22, do you see a name there, Kim  
11:50AM 13 Mecca?

11:50AM 14 A. Yes.

11:50AM 15 Q. Now who was Kim Mecca to you?

11:50AM 16 A. She was a girl that I went out with.

11:50AM 17 Q. Did she live with you for a period?

11:50AM 18 A. She lived with me for a period, yes.

11:50AM 19 Q. When your house got raided August 23rd, 2019, was Kim  
11:51AM 20 Mecca there?

11:51AM 21 A. She was.

11:51AM 22 Q. Was she living with you at the time?

11:51AM 23 A. She was.

11:51AM 24 **MR. TRIPI:** Keep scrolling down.

25

25 Q. By the way, record 38, do you see a name K.L.?

11:52AM 1 A. Yes.

11:52AM 2 Q. Now, do you know -- in fairness, do you know who that  
11:52AM 3 person is?

11:52AM 4 A. I do not, no.

11:52AM 5 Q. Under record 39, do you see a name Lindsay Schuh?

11:52AM 6 A. Yes.

11:52AM 7 Q. Is that now Lindsay Bongiovanni?

11:52AM 8 A. Yes, it is.

11:52AM 9 Q. So it's Mr. Bongiovanni's wife?

11:52AM 10 A. Correct.

11:52AM 11 Q. Under that, do you see record 40, we're on page 16 of  
11:53AM 12 this exhibit, is that Tom Napoli?

11:53AM 13 A. Yes, it is.

11:53AM 14 Q. And there's a phone number there?

11:53AM 15 A. Yes.

11:53AM 16 Q. And we've discussed him several times, right?

11:53AM 17 A. Yes.

11:53AM 18 **MR. TRIPI:** Keep scrolling. I'm gonna stop you  
11:53AM 19 there.

11:53AM 20 **BY MR. TRIPI:**

11:53AM 21 Q. Do you see record number 45, do you see a name and phone  
11:53AM 22 number for a Greg Trotter?

11:53AM 23 A. Yes, I do.

11:53AM 24 Q. Do you know who that is?

11:53AM 25 A. I don't.

11:53AM 1 **MR. TRIPI:** On page number -- go down a little. Go  
11:53AM 2 down. Page number 18.  
11:53AM 3 **BY MR. TRIPI:**  
11:53AM 4 Q. Record 46, do you see a name Tommy O with a phone number?  
11:53AM 5 A. Yes.  
11:53AM 6 Q. In fairness, do you know who that is?  
11:53AM 7 A. I don't.  
11:53AM 8 **MR. TRIPI:** Keep scrolling. Stop there.  
11:53AM 9 **BY MR. TRIPI:**  
11:53AM 10 Q. Under record number 48, do you see a name there, Frank  
11:53AM 11 Tripi?  
11:53AM 12 A. Yes.  
11:53AM 13 Q. Do you know who that is?  
11:53AM 14 A. Yes.  
11:53AM 15 Q. No relation of mine, right?  
11:53AM 16 A. Correct.  
11:53AM 17 Q. Okay. Is he someone that Mr. Bongiovanni also knew?  
11:54AM 18 A. Yes.  
11:54AM 19 Q. Under there, record 49, page 19 still, do you see the  
11:54AM 20 name Joe Tomasello?  
11:54AM 21 A. Yes.  
11:54AM 22 Q. Is that someone you know?  
11:54AM 23 A. Yes.  
11:54AM 24 Q. Is that someone Mr. Bongiovanni knows?  
11:54AM 25 A. Yes.



11:54AM 1 **MR. TRIPI:** Keep scrolling. Stop there.

11:54AM 2 **BY MR. TRIPI:**

11:54AM 3 Q. Record 51, do you see a record for Anthony bro?

11:54AM 4 A. Yes.

11:54AM 5 Q. And we talked about Anthony Gerace, this defendant has a  
11:54AM 6 brother by that name?

11:54AM 7 A. Yes.

11:54AM 8 **MR. TRIPI:** Keep scrolling.

11:54AM 9 Okay. We're gonna take that down now.

11:54AM 10 **BY MR. TRIPI:**

11:55AM 11 Q. By February of 2015, when Mr. Bongiovanni was getting  
11:55AM 12 married in Cabo San Lucas, had his sort of complaints about  
11:55AM 13 his finances stopped by that point?

11:55AM 14 A. No.

11:55AM 15 Q. Did he still continue to complain about his finances?

11:55AM 16 A. Yes.

11:55AM 17 Q. Did he pay, though, for a destination wedding though that  
11:55AM 18 year?

11:55AM 19 A. He did.

11:55AM 20 Q. Were you the best man at that wedding?

11:55AM 21 A. Yes.

11:55AM 22 **MR. TRIPI:** Ms. Champoux, for the witness only --  
11:55AM 23 Just give me one moment, Judge.

11:55AM 24 **THE COURT:** How much more do you have, Mr. Tripi?

11:55AM 25 **MR. TRIPI:** Oh, I see the time, Judge. Maybe, like,

1 15 more minutes or so.

2 **THE COURT:** Yeah, so we're gonna have to break. But  
3 go ahead, we'll go until close to noon.

4 **MR. TRIPI:** Okay. I'm going to hand you up -- maybe  
5 we can end after getting these.

6 **THE COURT:** Great.

7 **BY MR. TRIPI:**

8 Q. I'm going to hand you up Exhibits 213-1 through 213-5  
9 inclusive. Take a look at these. When you're done, look  
10 back at me.

11 A. Okay. Thank you.

12 Q. Do you recognize those Exhibits 213-1 through 213-5  
13 inclusive?

14 A. I do. Yes.

15 Q. Do those consist of photos of Mr. Bongiovanni's wedding  
16 that you were in or that you took, and tweets that you made  
17 following the -- at some point in proximity but following the  
18 wedding?

19 A. Yes.

20 Q. Okay. Do they all fairly and accurately depict the  
21 photos you took and the posting to Twitter of the images of  
22 the wedding?

23 A. Yes.

24 **MR. TRIPI:** The government offers 213-1 through 5  
25 inclusive, Your Honor.

11:57AM 1 **MR. SOEHNLEIN:** Can I just take a look at them, Joe?

11:57AM 2 **MR. TRIPI:** Sure, no problem.

11:57AM 3 **THE COURT:** Sure.

11:57AM 4 **MR. SOEHNLEIN:** No objection.

11:57AM 5 **THE COURT:** Received without objection.

11:57AM 6 **(GOV Exhibit 213-1 through 5 were received in evidence.)**

11:57AM 7 **MR. TRIPI:** All right. Do you want me to keep going?

11:57AM 8 I was going to publish a couple of them, do you want me to

11:57AM 9 keep going?

11:57AM 10 **THE COURT:** Why don't we break, because I have

11:57AM 11 another matter that I need do at noon.

11:57AM 12 So remember my instructions, folks, about not

11:57AM 13 communicating about the case with anyone, including each

11:57AM 14 other. Don't use tools of technology to communicate about the

11:57AM 15 case or to learn anything about the case. Don't read or watch

11:57AM 16 or listen to any news coverage, if there is any, while the

11:58AM 17 trial is in progress. And don't make up your mind until you

11:58AM 18 start deliberating.

11:58AM 19 Let's come back close to quarter to 1, and we'll try

11:58AM 20 to go a couple hours, take a break, and then go until 4.

11:58AM 21 Okay? Thanks very much.

11:58AM 22 Oh, and I hope to have an update for you about the

11:58AM 23 rest of the trial when you come back after lunch.

11:58AM 24 **(Jury excused at 11:58 a.m.)**

11:59AM 25 **THE COURT:** Again, Mr. Selva, you're not to talk to

anybody except your lawyer during the break.

(Witness excused at 11:59 a.m.)

**THE COURT:** Anything before we break from Mr. Foti?

**MR. FOTI:** No.

**THE COURT:** Government?

**MR. COOPER:** No, thank you.

**THE COURT:** All right. We'll see you in 45 minutes.

(Off the record at 11:59 a.m.)

(Back on the record at 12:50 p.m.)

(Jury not present.)

**THE CLERK:** All rise.

**THE COURT:** Please be seated.

**THE CLERK:** We are back on the record for the continuation of the jury trial in case numbers 19-cr-227 and 23-cr-37, United States of America versus Peter Gerace Jr.

All counsel and parties are present. Mr. Cooper just ran out.

**THE COURT:** That's okay. That's fine.

Have you thought about charging the jury without Mr. Soehnlein present?

**MR. SOEHNLEIN:** Yeah, we -- we talked about it, Your Honor, and we have not talked with Mr. Gerace about it. Think Mr. Foti and I are okay with that, but we would just ask -- maybe get through one more break, and we'll ask Mr. Gerace and make sure he's all right.

12:51PM 1 **THE COURT:** Absolutely, yeah. It makes sense to me  
12:51PM 2 for lots of reasons. And then maybe even let them to start  
12:51PM 3 deliberating with the understanding that if they come back  
12:51PM 4 with anything that is substantive as to a request, we don't do  
12:51PM 5 it, we send them home and let them start up again when  
12:51PM 6 Mr. Soehnlein is back.

12:51PM 7 **MR. SOEHNLEIN:** And then I don't have to sit through  
12:51PM 8 the charge.

12:51PM 9 **THE COURT:** And then you don't have to listen to my  
12:51PM 10 voice for as long as you've had to listen to it for most of  
12:51PM 11 your adult life, right?

12:51PM 12 **MR. SOEHNLEIN:** Well, yeah.

12:51PM 13 **MR. COOPER:** He meant to say, I don't get to sit  
12:51PM 14 through the charge. He misspoke.

12:51PM 15 **THE COURT:** I get it. I get it. I get it.

12:51PM 16 **MR. FOTI:** I intend to call him afterwards and tell  
12:51PM 17 him how it was, Judge.

12:51PM 18 **MS. IZZO:** Riveting.

12:51PM 19 **THE COURT:** So what I will do is I'll tell them now.  
12:51PM 20 Mr. Tripi, how long is your summation going to go?

12:51PM 21 **MR. TRIPI:** Mr. Cooper is closing.

12:52PM 22 **THE COURT:** Oh, Mr. Cooper?

12:52PM 23 **MR. TRIPI:** I am going to rebut in whatever time is  
12:52PM 24 left. I'll be Mr. Violanti this time, but I'm not gonna do  
12:52PM 25 the "I'm gonna talk to you as Joel" routine.

12:52PM 1 **MR. COOPER:** I've forbidden him from pretending to be  
12:52PM 2 Joel.

12:52PM 3 I think that the summation, Judge, probably we'd be  
12:52PM 4 asking for three and a half hours for the entire -- because  
12:52PM 5 there's a lot, and there's different types of material.

12:52PM 6 **THE COURT:** I was actually thinking three, but  
12:52PM 7 let's -- let me think about it.

12:52PM 8 **MR. COOPER:** I'll live with whatever you decide.

12:52PM 9 **THE COURT:** Yeah. And who's going to sum up?

12:52PM 10 **MR. FOTI:** I am.

12:52PM 11 **THE COURT:** And what are you thinking?

12:52PM 12 **MR. FOTI:** I -- I would think most likely two and a  
12:52PM 13 half to three.

12:52PM 14 **THE COURT:** Yeah. Yeah. So I want to get it done in  
12:52PM 15 one day. So maybe we'll say three each. Let's think about  
12:52PM 16 three each right now.

12:52PM 17 And so I'll tell them that that may happen on  
12:52PM 18 Thursday, and that they may get charged on Friday next week.  
12:52PM 19 And we're not making any promises, but that's what we would  
12:52PM 20 think is a possibility. Okay? Fair enough?

12:53PM 21 **MR. FOTI:** And you're not -- Judge, you're just  
12:53PM 22 referencing where we're gonna -- we're expecting to end up at  
12:53PM 23 the end of the week. You're not talking about any estimation  
12:53PM 24 about how long our case is going on, or whether we're putting  
12:53PM 25 on a case at all, right?

1           **THE COURT:** No, just talking in very general terms  
2           that we are thinking that, you know, that the lawyers may be  
3           in a position to sum up to you next Thursday, and then I would  
4           charge you on Friday, so you would begin your deliberations  
5           perhaps on Friday and then continue the following week. And  
6           that -- and leave it at that.

7           **MR. FOTI:** Okay.

8           **THE COURT:** Okay? Okay. So anything else before we  
9           bring them back?

10          **MR. SOEHNLEIN:** One thing briefly, Judge. Just to  
11          make a record of it, when I was coming down from the 9th floor  
12          to the 4th floor, I was with Mr. Glaberson, Ms. Blackman, and  
13          a marshal. The elevator doors opened on 7, and a juror walked  
14          basically right into me, not really, and she said sorry and I  
15          said sorry, and she stepped off the elevator, and that was it.  
16          But as long as we're being real careful with that stuff, I  
17          wanted everyone to be --

18          **THE COURT:** No, absolutely, we all should be  
19          transparent about those kinds of things, and I appreciate  
20          that.

21          **MR. COOPER:** We appreciate it. We try do the same  
22          thing, and appreciate you telling us.

23          **THE COURT:** Okay, anything else?

24          **MR. SOEHNLEIN:** No, Judge.

25          **THE COURT:** Anything else from the government?

12:54PM  
12:54PM  
12:55PM  
12:55PM  
12:55PM  
12:55PM  
12:56PM  
12:56PM  
12:56PM  
12:56PM  
12:56PM  
12:56PM  
12:56PM  
12:56PM  
12:56PM  
12:56PM  
12:56PM  
12:56PM  
12:56PM  
12:56PM  
12:56PM  
12:56PM  
12:56PM  
12:56PM  
12:56PM  
12:56PM  
12:56PM  
12:57PM

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**MR. TRIPI:** No, Judge.

**THE COURT:** Let's bring them back, please, Joe.

(Jury seated at 12:55 p.m.)

**THE COURT:** Okay. The record will reflect all our jurors, again, are present.

So a couple things, folks.

One, you'll notice Ms. Chalbeck is not here again today. Again, she's got an important matter that she needed to attend to. I've excused her. It has nothing to do with this case. You should not be concerned about it in any way.

Number 2, I told you I'd give you an update on where we think we may be going with the trial.

There's a chance, it's not a promise, but there's a chance that the proof will end on Wednesday next week, and the lawyers will sum up to you then on Thursday, and I may give you the jury charge on Friday, so you'd start deliberating on Friday and continue into next week.

So, that's -- that's not a promise. You know, lots of things have happened to extend this trial: Weather and illness and lots of other things. But that's what we think is a decent guess right now. Okay? Yes.

**JUROR:** I'm sorry, so we will be here Friday the 20th?

**THE COURT:** Maybe.

**JUROR:** Maybe?



12:57PM 1 **THE COURT:** It's still up in the air. Maybe. Maybe.

12:57PM 2 There's a decent possibility that you will be, okay?

12:57PM 3 I remind the witness that he's still under oath.

12:57PM 4 You may continue, Mr. Tripi.

12:57PM 5 **MR. TRIPI:** Thank you, Your Honor.

12:57PM 6 Ms. Champoux, can we split the screen with

12:57PM 7 Exhibit 213-1 now in evidence, and 213-4 now in evidence?

12:57PM 8 **BY MR. TRIPI:**

12:57PM 9 Q. Okay. When it comes up on the screen, Mr. Selva, it's a

12:57PM 10 little bit darker than it is when I hand you the piece of

12:57PM 11 paper, right?

12:57PM 12 A. Yes.

12:57PM 13 Q. In any event, can you see it well enough on the screen?

12:57PM 14 A. Yes.

12:57PM 15 Q. Looking at 213-1, top photo there, we're looking at

12:57PM 16 tweets that you made, right?

12:57PM 17 A. Yes.

12:57PM 18 Q. Is that top photo you and Mr. Bongiovanni?

12:57PM 19 A. Yes.

12:57PM 20 Q. Is he the one in the green shirt?

12:58PM 21 A. Yes, to the right.

12:58PM 22 Q. And what's the setting and scene of the photo?

12:58PM 23 A. It's in Cabo San Lucas. I believe it was on a booze

12:58PM 24 cruise.

12:58PM 25 Q. Okay. Now I'll focus you in on 213-4 at the bottom. Are

12:58PM 1 you and Mr. Bongiovanni also in that photo?

12:58PM 2 A. Yes.

12:58PM 3 Q. And who's that photo of? There's four people there.

12:58PM 4 A. Mr. Bongiovanni, myself, Tom Napoli, and

12:58PM 5 Mr. Bongiovanni's stepson Matt.

12:58PM 6 Q. Okay. Tom Napoli's at the far left?

12:58PM 7 A. He's at the far left, yes.

12:58PM 8 Q. Next to him is that Mr. Bongiovanni?

12:58PM 9 A. Yes.

12:58PM 10 Q. Then next to him is that you?

12:58PM 11 A. Yes.

12:58PM 12 Q. Is that basically a picture of the wedding party?

12:58PM 13 A. Yes.

12:58PM 14 Q. Now, the suits that the wedding party is wearing, who  
12:58PM 15 bought those?

12:58PM 16 A. Mr. Bongiovanni.

12:58PM 17 Q. Okay. So he paid for your suit?

12:58PM 18 A. Yes.

12:58PM 19 Q. Who paid for the wedding?

12:58PM 20 A. I believe Mr. Bongiovanni.

12:59PM 21 **MR. TRIPI:** Okay. We can take those down,

12:59PM 22 Ms. Champoux.

12:59PM 23 **BY MR. TRIPI:**

12:59PM 24 Q. And again, the actual wedding the tweets, the tweets are  
12:59PM 25 in May, but the actual wedding was in February of 2015?

12:59PM 1 A. Yes.

12:59PM 2 Q. Okay. I'd like to fast forward now from 2015 to the  
12:59PM 3 fall, roughly the fall of 2018.

12:59PM 4 In the fall of 2018, did Mr. Bongiovanni alert you to  
12:59PM 5 some trouble he was having at work?

12:59PM 6 A. Yes.

12:59PM 7 Q. Did he start talking about retiring around that time?

12:59PM 8 A. Yes.

12:59PM 9 Q. Was a concern he expressed, did it relate to another DEA  
12:59PM 10 agent he worked with named Anthony Casullo?

12:59PM 11 A. Yes.

12:59PM 12 Q. Prior to that point, as far as you knew, had defendant --  
01:00PM 13 had Mr. Bongiovanni been planning to retire?

01:00PM 14 A. No.

01:00PM 15 **MR. TRIPI:** Now, if we can pull back up Exhibit 127  
01:00PM 16 briefly. This is in evidence. I'm sorry, 126. My fault.

01:00PM 17 **BY MR. TRIPI:**

01:00PM 18 Q. Now I showed you this photograph before. Is there  
01:00PM 19 another individual in this photograph named Michael Sinatra?

01:00PM 20 **MR. SOEHNLEIN:** Objection. Relevance.

01:00PM 21 **MR. TRIPI:** They've heard testimony about this entire  
01:00PM 22 episode from Mr. Myszka.

01:00PM 23 **THE COURT:** I'll allow this, and we'll see where it  
01:00PM 24 goes.

01:00PM 25 **THE WITNESS:** Yes.

24 Q. In that timeframe between fall of 2018 and the time  
25 following when you heard about Michael Sinatra and Anthony

Gerace's house being searched, in that timeframe, did Mr. Bongiovanni comment to you that he was being scrutinized at work over Anthony and Peter Gerace?

**MR. SOEHNLEIN:** Objection. In furtherance.

**THE COURT:** Oh, yeah. Hearsay.

**MR. TRIPI:** State of mind, Your Honor.

**THE COURT:** Mr. Bongiovanni's state of mind?

**MR. TRIPI:** Yes.

**THE COURT:** Okay. So this is not being admitted for the truth of it, it's being admitted to show Mr. Bongiovanni's state of mind.

Objection overruled on that -- on that limited ground, and you can answer.

**THE WITNESS:** Yes, it was.

**BY MR. TRIPI:**

Q. You said: Yes, it was.

Did you mean: Yes, he was?

A. Yes.

Q. Okay. Did you witness Mr. Bongiovanni become increasingly stressed prior to retiring from DEA?

A. Yes.

Q. After he retired from DEA, did you later hear that Mr. Bongiovanni's house was searched in around June of 2019?

A. Yes.

**MR. SOEHNLEIN:** Objection.

01:03PM 1 **THE COURT:** Yeah, sustained.

01:03PM 2 **BY MR. TRIPI:**

01:03PM 3 Q. After Mr. Bongiovanni's home was searched in or about  
01:04PM 4 June of 2019, did you meet up with him at some point?

01:04PM 5 **MR. SOEHNLEIN:** Objection. Same objection, Judge.

01:04PM 6 **MR. TRIPI:** Judge --

01:04PM 7 **THE COURT:** Did you meet up with him? No, overruled.

01:04PM 8 **BY MR. TRIPI:**

01:04PM 9 Q. Did you meet up with Mr. Bongiovanni after a period of  
01:04PM 10 time?

01:04PM 11 A. After a period of time, yes.

01:04PM 12 Q. Was there a short period of time where Mr. Bongiovanni  
01:04PM 13 was sort of laying low where you couldn't get ahold of him?

01:04PM 14 A. Yes.

01:04PM 15 Q. After about month or so, did you and he reconnect?

01:04PM 16 A. Yes.

01:04PM 17 Q. At that point after the searches of Anthony and Joe later  
01:04PM 18 that same year, were you nervous?

01:04PM 19 A. Yes.

01:04PM 20 Q. Did you have a discussion with Mr. Bongiovanni at his  
01:05PM 21 house in his driveway?

01:05PM 22 A. Yes.

01:05PM 23 Q. Now is that one of the occasions where Mr. Bongiovanni  
01:05PM 24 reminded you of what you should say to law enforcement if  
01:05PM 25 they approached you?

1 A. It was. Yes.

2 Q. Was that essentially to tell them you were his informant?

3 A. Correct.

4 Q. And that would have been false, correct?

5 A. Correct.

6 Q. Did you also sort of meet up at a point in time near

7 Delaware Park and have a similar discussion?

8 A. Yes.

9 Q. During the walk in the Delaware Park meeting, did you  
10 also discuss with him Anthony Gerace?

11 **MR. SOEHNLEIN:** Objection.

12 **MR. TRIPI:** It's a "yes" or "no" question, Judge.

13 **THE COURT:** Yeah, overruled.

14 **THE WITNESS:** Yes.

15 **BY MR. TRIPI:**

16 Q. During the meeting in the park, what, if any, concerns  
17 was Mr. Bongiovanni expressing to you regarding Anthony  
18 Gerace?

19 A. Well, he was -- he was nervous about it, that it would  
20 come back on him with this whole operation that was going on.

21 **MR. SOEHNLEIN:** Your Honor, can we approach, please?

22 **THE COURT:** Yeah, come on up.

23 (Sidebar discussion held on the record.)

24 **THE COURT:** The whole operation going on, I think  
25 he's talking about the Serio conspiracy, which he shouldn't.

1 I don't know if that's what he meant, but I don't want to go.

2 **MR. TRIPI:** I understand. I clearly -- my question  
3 is clear about Anthony Gerace. And the problem for the  
4 witness is Anthony Gerace is involved across the board.

5 **THE COURT:** I understand.

6 **MR. TRIPI:** I understand that. So I can ask a more  
7 leading question.

8 **THE COURT:** I don't think there's -- I don't think  
9 that the answer right now by itself is harmful if we want to  
10 let the jury know what he meant by --

11 **MR. TRIPI:** Obviously, something's happening if law  
12 enforcement is searching Anthony Gerace's house. They've seen  
13 big boxes of marijuana and drugs.

14 **THE COURT:** I understand that.

15 **MR. TRIPI:** So, I mean, it's not --

16 **THE COURT:** I understand that. But -- but again, I  
17 don't want the Serio conspiracy to make its way in through the  
18 back door, so --

19 **MR. TRIPI:** I'll ask a very pointed question.

20 **THE COURT:** I overrule the objection, but I don't  
21 want to get into the Serio conspiracy.

22 **MR. FOTI:** Yeah, I think the jury hears "operation,"  
23 they're going to assume it relates to something involving  
24 between Anthony Gerace and Peter Gerace, and we know factually  
25 that that's not the case, so I'm worried about the unfair



1 prejudice.

2 **THE COURT:** You can clear that up.

3 **MR. FOTI:** We certainly could, but we -- we don't  
4 want to do it at risk of an argument being presented that now  
5 they've opened the door to other things.

6 **THE COURT:** He can certainly say right now --

7 **MR. TRIPI:** You don't want me to ask that question,  
8 I'm sure.

9 **THE COURT:** There may be a way to do it, but I don't  
10 think that without thinking of a Serio conspiracy.

11 **MR. FOTI:** I don't think so either, it's a reference  
12 to a conspiracy involving Peter Gerace.

13 **MR. TRIPI:** It's Anthony, Judge. I'm sorry that he  
14 was involved in drugs with his brother, and his brother was  
15 involved in drugs with Ron Serio. But that's the reality of  
16 life.

17 And he's already talked about Joe telling him he  
18 stepped in for Anthony and Peter.

19 **THE COURT:** Yeah, and Anthony is involved in the  
20 conspiracy that's at issue here in some ways.

21 **MR. FOTI:** Some ways in a very min -- it's certainly  
22 not an operation.

23 **THE COURT:** I agree. Well --

24 **MR. FOTI:** The testimony that we've heard is Anthony  
25 gave Peter drugs once when Peter came over with his girlfriend

late at night, and that Anthony has sold drugs a couple times in Pharaoh's.

**THE COURT:** Do you want me to tell the jury to strike the whole operation and let Mr. Tripi reword it a little differently with questions?

**MR. TRIPI:** Personally, I think that it's right over their head, and all we're doing is drawing attention to it.

**THE COURT:** So do I.

**MR. TRIPI:** Yeah, I get it, I get it.

**MR. FOTI:** So we won't ask for the instruction.

**THE COURT:** You don't want it, right? The next question, right? And let's keep it tight.

(End of sidebar discussion.)

**THE COURT:** Mr. Selva, I want you to speak up right into the microphone, please.

**THE WITNESS:** Yes, Your Honor.

**BY MR. TRIPI:**

Q. In your discussion with Mr. Bongiovanni as part of it, just listen to this question, as part of your discussion as you walked with Mr. Bongiovanni in the vicinity of Delaware Park, did Mr. Bongiovanni tell you he was concerned that Anthony would flip because Mr. Bongiovanni had helped him before, and he had helped him on a prior arrest?

A. Yes.

Q. Was Bongiovanni concerned about that?

01:09PM 1 A. He was.

01:09PM 2 Q. And is that what you talked about earlier when you  
01:10PM 3 referenced him stepping in regarding Amherst police?

01:10PM 4 A. Correct.

01:10PM 5 Q. Okay. All right. I'm going to hand you an exhibit,  
01:10PM 6 Government Exhibit 208D. I'm going to ask you to just take a  
01:10PM 7 look at it, and when you're done, look up.

01:10PM 8 **MR. TRIPI:** Do you need to see it?

01:10PM 9 **MR. SOEHNLEIN:** Can I?

01:11PM 10 **BY MR. TRIPI:**

01:11PM 11 Q. Okay. I'm going to hand you up two exhibits. Government  
01:11PM 12 Exhibit 208D and Government Exhibit 208K. Take a moment and  
01:11PM 13 look at these and then I'm going to have some questions about  
01:11PM 14 them, okay?

01:11PM 15 A. Okay.

01:11PM 16 Q. Did you have a chance to look at those?

01:12PM 17 A. I did.

01:12PM 18 Q. Starting at Exhibit 208D, do you recognize that?

01:12PM 19 A. I do.

01:12PM 20 Q. Now going back in time for a moment, back on August 23rd,  
01:12PM 21 2019 when the search warrant was executed at your residence,  
01:12PM 22 I think yesterday you indicated that you gave your cell phone  
01:12PM 23 to HSI for them to search; is that right?

01:13PM 24 A. That's correct.

01:13PM 25 Q. And is it your understanding they extracted the data from

01:13PM 1 your phone and then returned your cell phone?

01:13PM 2 A. Yes.

01:13PM 3 Q. And since that time, you've looked at the data extracted

01:13PM 4 from your phone, and you've verified that was from your

01:13PM 5 phone, correct?

01:13PM 6 A. Correct.

01:13PM 7 Q. Now looking at Exhibit 208D, does that contain contacts

01:13PM 8 that were in your phone at that time?

01:13PM 9 A. It does, yes.

01:13PM 10 Q. And do you recognize it because you reviewed it and

01:13PM 11 initialed it?

01:13PM 12 A. I do, yes.

01:13PM 13 Q. And you recognize the contacts that were in the phone as

01:13PM 14 being contacts you had?

01:13PM 15 A. Yes.

01:13PM 16 Q. Does that Exhibit 208D fairly and accurately depict

01:13PM 17 contacts that were in your phone as of August 23rd, 2019?

01:13PM 18 A. They do, yes.

01:13PM 19 Q. Turning to Exhibit 208K.

01:13PM 20 A. Okay.

01:13PM 21 Q. Do you remember doing some internet searches on your

01:13PM 22 phone?

01:13PM 23 A. Yes.

01:13PM 24 Q. Did some of those internet searches -- were you trying to

01:13PM 25 find out information about Anthony Gerace during the summer

01:14PM 1 of 2019?

01:14PM 2 A. Yes.

01:14PM 3 Q. Do you recognize 208K to be searches that you did on your  
01:14PM 4 phone looking for information about Anthony Gerace?

01:14PM 5 A. Yes.

01:14PM 6 Q. Do those fairly and accurately depict searches you did in  
01:14PM 7 your phone for Anthony Gerace?

01:14PM 8 A. Yes.

01:14PM 9 **MR. TRIPI:** The government offers 208D and 208K,  
01:14PM 10 Your Honor.

01:14PM 11 **MR. SOEHNLEIN:** No objection.

01:14PM 12 **THE COURT:** Received without objection.

01:14PM 13 **(GOV Exhibits 208D, 208K were received in evidence.)**

01:14PM 14 **BY MR. TRIPI:**

01:14PM 15 Q. I'd like to go through first 208D. We're winding down,  
01:14PM 16 Mr. Selva. We have a couple more things to cover, but we're  
01:14PM 17 almost done.

01:14PM 18 A. Okay.

01:14PM 19 **MR. TRIPI:** Okay. Ms. Champoux, can we zoom in on  
01:14PM 20 the contact number 1?

01:14PM 21 **BY MR. TRIPI:**

01:14PM 22 Q. Did you have a contact in your phone for Anthony Gerace  
01:14PM 23 with a phone number?

01:14PM 24 A. Yes.

01:14PM 25 Q. Okay.

01:15PM 1 **MR. TRIPI:** You can zoom out of that.

01:15PM 2 **BY MR. TRIPI:**

01:15PM 3 Q. Did you have several contact numbers for Mike Masecchia?

01:15PM 4 A. Yes.

01:15PM 5 Q. And that was someone whose name we saw in the contacts

01:15PM 6 for Mr. Gerace's phone earlier?

01:15PM 7 A. Yes.

01:15PM 8 Q. In your contacts, how did you have Mr. Masecchia's saved?

01:15PM 9 A. The name under --

01:15PM 10 Q. Yeah.

01:15PM 11 A. His nickname was the Gorilla.

01:15PM 12 Q. Okay. So when we see, Gorilla ape, Gorilla new number,

01:15PM 13 Gorilla, Grover Gorilla, are those references to Masecchia?

01:15PM 14 A. Yes.

01:15PM 15 **MR. TRIPI:** So let's go to the next page,

01:15PM 16 Ms. Champoux.

01:15PM 17 **BY MR. TRIPI:**

01:15PM 18 Q. Contact number 8, do you see that?

01:15PM 19 A. Yes.

01:15PM 20 Q. Is that a phone number you had for Joe Bongiovanni, two

01:15PM 21 phone numbers?

01:15PM 22 A. Yes.

01:15PM 23 Q. Now were those phone numbers you had received regarding

01:15PM 24 him after he separated from the DEA?

01:16PM 25 A. One, yes. Well, one of them was.

01:16PM 1 Q. Was his DEA phone number, if you recall it, 818 -- an 818  
01:16PM 2 number?

01:16PM 3 A. It was.

01:16PM 4 Q. So these are two other numbers you had?

01:16PM 5 A. Yes.

01:16PM 6 **MR. TRIPI:** Okay. Zoom out of that.

01:16PM 7 **BY MR. TRIPI:**

01:16PM 8 Q. Contact number 10. You have Mr. Bongiovanni's wife's  
01:16PM 9 phone number's as well?

01:16PM 10 A. Yes.

01:16PM 11 Q. And we saw her in one of the photos earlier in your  
01:16PM 12 testimony, correct?

01:16PM 13 A. Yes.

01:16PM 14 Q. Okay.

01:16PM 15 **MR. TRIPI:** We can zoom out of that. Scroll down a  
01:16PM 16 little bit to contact 11, please.

01:16PM 17 **BY MR. TRIPI:**

01:16PM 18 Q. Okay. Who's that?

01:16PM 19 A. That's Lillo Brancato, the actor who was actually friends  
01:16PM 20 with Kim Mecca who you mentioned earlier.

01:16PM 21 Q. Okay.

01:16PM 22 A. And I got to know him through her.

01:16PM 23 Q. And what were some of the movies or shows he's been in?

01:17PM 24 A. He was in the movie a Bronx Tale, a few other ones. He  
01:17PM 25 was on The Sopranos, I think Crimson Tide.

01:17PM 1 Q. We're gonna pause here for a moment.

01:17PM 2 **MR. TRIPI:** Ms. Champoux, can we switch back to  
01:17PM 3 Exhibit 310D now? Bear with me just a moment.

01:18PM 4 Okay. Ms. Champoux, could we go to a message,  
01:18PM 5 March 6th, 2016, at 8:53 p.m. I can't give you a page number  
01:18PM 6 because this isn't numbered, but if you can scroll down to a  
01:18PM 7 March 6th, 2016 message in Exhibit 310D.

01:18PM 8 2016, yeah, March 6th. There you go.

01:18PM 9 **BY MR. TRIPI:**

01:18PM 10 Q. All right. Do you see a photograph there of two people  
01:18PM 11 on Exhibit 310D?

01:18PM 12 A. Yes.

01:18PM 13 Q. Okay. Who do you see in that photo?

01:19PM 14 A. Lillo Brancato and Mr. Gerace.

01:19PM 15 Q. Okay. That's the same Lillo Brancato that you have  
01:19PM 16 stored in your phone, correct?

01:19PM 17 A. Yes.

01:19PM 18 **MR. TRIPI:** Let's go back to Exhibit 208D. We'll  
01:19PM 19 look at contact 13, scrolling a little bit.

01:19PM 20 **BY MR. TRIPI:**

01:19PM 21 Q. Is that another number you had for Mike Masecchia?

01:19PM 22 A. Yes.

01:19PM 23 Q. Okay.

01:19PM 24 **MR. TRIPI:** Let's go to the contact under that,  
01:19PM 25 contact 14.



01:19PM  
01:19PM  
01:19PM  
01:19PM  
01:19PM  
01:19PM  
01:19PM  
01:19PM  
01:19PM  
01:19PM  
01:19PM  
01:19PM  
01:19PM  
01:19PM  
01:20PM  
01:20PM  
01:20PM  
01:20PM  
01:20PM  
01:20PM  
01:20PM  
01:20PM  
01:20PM  
01:20PM  
01:20PM  
01:20PM

1                   **BY MR. TRIPI:**

2       Q.   Did you have a contact for Michael Sinatra?

3       A.   Yes.

4       Q.   Is that the same person we saw in that Exhibit 126 a

5       moment ago?

6       A.   Yeah.

7       Q.   The photograph?

8       A.   Yes.

9       Q.   Okay.  It's the same person who was in the picture with

10      Mr. Bongiovanni?

11      A.   Yes, sir.

12                   **MR. TRIPI:**  Okay.  Scroll out of that.

13                   **BY MR. TRIPI:**

14      Q.   And we went through phone records earlier where you were

15      in contact with Mr. Gerace, but you had him as a contact in

16      your phone, and you had his number saved; is that right?

17      A.   That's correct.

18                   **MR. TRIPI:**  Okay.  We can zoom out of that.  If we

19      can zoom in on 18 and 19.

20                   **BY MR. TRIPI:**

21      Q.   When we were looking through contacts for Mr. Gerace's

22      phone, we saw a person named Wayne Anderson.  Do you also

23      have Wayne Anderson's contact information?

24      A.   Yes.

25      Q.   Is he someone you've known for a long time?

1 A. Yes.

2 Q. Is that someone who also knows Mr. Bongiovanni?

3 A. Yes.

4 Q. By the way, does Mr. Masecchia also know Mr. Bongiovanni?

5 A. He does.

6 Q. For a long time?

7 A. He does.

8 Q. Since childhood?

9 A. Since childhood, yes.

10 **MR. TRIPI:** Keep scrolling down. Stop there.

11 **BY MR. TRIPI:**

12 Q. Okay. Now earlier in Mr. Gerace's phone, we looked at a

13 person named Turtle; do you remember that?

14 A. Yes.

15 Q. And now you have a contact named Donnie Panepinto?

16 A. That's Mr. Panepinto's son.

17 Q. So the Donnie that you have in your phone is Turtle's

18 son?

19 A. Yes.

20 Q. And I think you indicated already that Mr. Bongiovanni

21 previously dated Dana?

22 A. Yes.

23 **MR. TRIPI:** We can zoom out of that. Are we at the

24 bottom?

25

01:21PM

1

**BY MR. TRIPI:**

01:21PM

2

Q. And the last one there was a Frank Tripi in Mr. Gerace's phone; do you remember that?

01:21PM

3

01:21PM

4

A. Yes.

01:21PM

5

Q. Exhibit 310AT, to be specific, do you remember you looked at that?

01:21PM

6

01:21PM

7

A. Yes, I do. Yes.

01:21PM

8

Q. Remember I showed you the first page?

01:21PM

9

A. Yes.

01:21PM

10

Q. Do you see a Frank Tripi spelled with one P this time?

01:21PM

11

A. Yes.

01:21PM

12

Q. Again, no relation to mine though?

01:21PM

13

A. Correct.

01:21PM

14

**MR. TRIPI:** We can take that down, I think.

01:21PM

15

Oops, we've got more. Keep going.

01:21PM

16

Stop a little bit. Keep going.

01:22PM

17

**BY MR. TRIPI:**

01:22PM

18

Q. Oh, yeah, we've talked about Tom Napoli. You also had contact for him in terms of Facebook and phone numbers; is that right?

01:22PM

19

01:22PM

20

01:22PM

21

A. That's correct.

01:22PM

22

**MR. TRIPI:** Are we at the bottom?

01:22PM

23

**MS. CHAMPOUX:** Yep.

01:22PM

24

**MR. TRIPI:** Okay. We can take that down, thank you very much.

01:22PM

25

01:22PM 1 All right. We're going to switch over to Exhibit  
01:22PM 2 208K now, and go to -- I think the second page of that.

01:22PM 3 If we can zoom in on the searched items.

01:22PM 4 **BY MR. TRIPI:**

01:22PM 5 Q. After Mr. Gerace -- Anthony Gerace's house was searched  
01:22PM 6 in January, and after Mr. Bongiovanni's house was searched in  
01:22PM 7 June, did you start to search for information about Anthony  
01:22PM 8 Gerace on the internet?

01:22PM 9 A. Yes.

01:22PM 10 Q. Were you trying to get information about his case?

01:23PM 11 A. Yes.

01:23PM 12 Q. Was that at the time you were becoming increasingly  
01:23PM 13 concerned?

01:23PM 14 A. Yes.

01:23PM 15 Q. About two months after you did -- a little less than two  
01:23PM 16 months after you did your first search on June 30th, 2019,  
01:23PM 17 down at the bottom here, was your house searched?

01:23PM 18 A. Yes.

01:23PM 19 Q. How many times after the warrant was executed at  
01:23PM 20 Mr. Bongiovanni's house did he meet with you and remind you  
01:23PM 21 that the cover story was to pretend that you were his  
01:23PM 22 informant?

01:23PM 23 A. A few times.

01:23PM 24 Q. More than once?

01:23PM 25 A. More than once.

01:23PM 1 Q. More than twice?

01:23PM 2 A. More than twice, yes.

01:23PM 3 Q. Was -- were those in public places or at his house?

01:23PM 4 A. At his house. And then I believe one time we were in a  
01:24PM 5 public place, a bar. But mostly the -- it was at his house,  
01:24PM 6 yes.

01:24PM 7 Q. You remember several meetings?

01:24PM 8 A. Yes, it was --

01:24PM 9 **MR. TRIPI:** One moment, please, Your Honor.

01:24PM 10 **THE COURT:** Yes.

01:24PM 11 **BY MR. TRIPI:**

01:24PM 12 Q. I think I skipped over one thing, so we're almost done.

01:24PM 13 **MR. TRIPI:** Can you pull up 109AB?

01:24PM 14 **THE COURT:** In evidence?

01:24PM 15 **MR. TRIPI:** Yeah, it is in evidence, Judge.

01:24PM 16 **BY MR. TRIPI:**

01:24PM 17 Q. Is this a car, do you recognize this?

01:24PM 18 A. Yes.

01:24PM 19 Q. Did you take that photo of Mr. Bongiovanni in that  
01:24PM 20 vehicle?

01:24PM 21 A. I did, yes.

01:24PM 22 Q. When Mr. Bongiovanni first purchased that vehicle, did it  
01:24PM 23 look like that? Was it in that condition? Or did he restore  
01:25PM 24 it?

01:25PM 25 A. He restored it.

1 Q. Did he do a lot of work on it as far as you know?

2 A. Yes.

3 Q. Did that happen as his financial condition improved?

4 A. Yes.

5 **MR. TRIPI:** Okay. Nothing further, Judge.

6 **THE COURT:** Mr. Soehnlein.

7

8 **CROSS-EXAMINATION BY MR. SOEHNLEIN:**

9 Q. Mr. Selva, what is a cooperation agreement?

10 A. What is a cooperation agreement?

11 Q. Yeah. Yeah.

12 A. That I'm gonna tell the truth, I mean, I was signed -- I

13 signed an agreement with them.

14 Q. And you haven't been charged with a crime, correct?

15 A. No.

16 Q. And the cooperation agreement doesn't necessarily

17 contemplate you will be charged with a crime, correct?

18 A. There's nothing guaranteed.

19 Q. Yeah. And that's an agreement between yourself and the

20 United States Attorney's Office, correct?

21 A. Correct.

22 Q. And these prosecutors behind me, they're from the same

23 United States Attorney's Office that you have that agreement

24 with, correct?

25 A. Correct.

01:26PM 1 Q. And that United States Attorney's Office is the same  
01:26PM 2 office that will decide whether or not to bring charges  
01:26PM 3 against you, correct?

01:26PM 4 A. Yes.

01:26PM 5 Q. Now, as part of that cooperation agreement, you have to  
01:26PM 6 show up whenever they want you to show up, correct?

01:26PM 7 A. Correct.

01:26PM 8 Q. You have to testify whenever they want you to testify,  
01:26PM 9 correct?

01:26PM 10 A. Correct.

01:26PM 11 Q. You have to meet with them whenever they want to meet  
01:26PM 12 with you, correct?

01:26PM 13 A. Correct.

01:26PM 14 Q. And with respect to this case, how many different times  
01:26PM 15 did they change the date of your testimony?

01:26PM 16 A. Today? I don't know, a few. I'm not, you know.

01:26PM 17 Q. Yeah, they kept changing the date on you, correct?

01:26PM 18 A. Correct.

01:26PM 19 Q. And you never told them that you couldn't be there,  
01:26PM 20 correct?

01:26PM 21 A. No.

01:26PM 22 Q. You never told them that you had any scheduling issues or  
01:26PM 23 anything like that, correct?

01:26PM 24 A. Any time I was told, I'd rearranged my schedule.

01:26PM 25 Q. Yeah.

01:26PM 1 A. The work schedule.

01:26PM 2 Q. Yeah. Because this is the most important thing going on  
01:26PM 3 for you right now, correct?

01:26PM 4 A. It's important, yes.

01:26PM 5 Q. Well, it's not just important, it's the most important  
01:27PM 6 thing?

01:27PM 7 A. Yes.

01:27PM 8 Q. I mean, because depending on how you do here is -- is  
01:27PM 9 going to play into whether or not you're ever charged  
01:27PM 10 correct?

01:27PM 11 **MR. TRIPI:** Objection.

01:27PM 12 **THE COURT:** Overruled.

01:27PM 13 **THE WITNESS:** Correct.

01:27PM 14 **BY MR. SOEHNLEIN:**

01:27PM 15 Q. Yeah. And that decision, the judge doesn't make the  
01:27PM 16 decision of whether or not you're charged, correct?

01:27PM 17 A. Correct.

01:27PM 18 Q. And your lawyer doesn't get to make that decision of  
01:27PM 19 whether or not you're charged, correct?

01:27PM 20 A. Correct.

01:27PM 21 Q. That's only the United States Attorney's Office, correct?

01:27PM 22 A. That's correct.

01:27PM 23 Q. Okay. So you've got a lot on the line here, correct?

01:27PM 24 A. Correct.

01:27PM 25 Q. Might be one of the most important days of your life,



01:27PM 1 right?

01:27PM 2 A. Correct.

01:27PM 3 Q. Okay. Now, on -- on August 23rd, 2019, your house was

01:27PM 4 searched; do you recall that?

01:27PM 5 A. That's correct.

01:27PM 6 Q. The search was early in the morning, correct?

01:27PM 7 A. It was.

01:27PM 8 Q. Flash bangs?

01:27PM 9 A. Yes, they broke the door down.

01:28PM 10 Q. Yeah. Do you recall how many agents came into your

01:28PM 11 house?

01:28PM 12 A. I don't remember. There was a bunch of them. I don't,

01:28PM 13 there was numerous.

01:28PM 14 Q. Yeah. And you weren't expecting that to happen, correct?

01:28PM 15 A. No.

01:28PM 16 Q. Yeah. That was very scary, wasn't it?

01:28PM 17 A. Yes. It was scary, yes.

01:28PM 18 Q. You were in the house?

01:28PM 19 A. Yes.

01:28PM 20 Q. You were asleep?

01:28PM 21 A. No.

01:28PM 22 Q. No? You were awake?

01:28PM 23 A. I was actually having a cup of coffee getting ready to go

01:28PM 24 to work.

01:28PM 25 Q. And you were getting ready to go to work as an Erie

01:28PM 1 County sheriff, correct?

01:28PM 2 A. Yes.

01:28PM 3 Q. Sheriff's deputy, I should say.

01:28PM 4 A. Correct.

01:28PM 5 Q. You work at the holding center, correct?

01:28PM 6 A. Correct.

01:28PM 7 Q. And you'd had that job for a couple of years at that

01:28PM 8 point?

01:28PM 9 A. No, I just -- I had just gotten it in March, so --

01:28PM 10 Q. Okay.

01:28PM 11 A. Six months.

01:28PM 12 Q. Okay. And before that, you had gone through the academy

01:28PM 13 and the training, correct?

01:28PM 14 A. Correct. The academy was 12 weeks, yes.

01:28PM 15 Q. So you had gone through 12 weeks of training, and then

01:28PM 16 you had the job about six months at that point?

01:28PM 17 A. Correct.

01:28PM 18 Q. And you were getting ready to go to work, correct?

01:29PM 19 A. Correct.

01:29PM 20 Q. And Ms. Mecca was there with you, as well?

01:29PM 21 A. She was.

01:29PM 22 Q. And she was your girlfriend at the time?

01:29PM 23 A. Correct.

01:29PM 24 Q. And how long had you been together?

01:29PM 25 A. A few years. Almost three years.

01:29PM 1 Q. And -- and that was a stressful experience, correct?

01:29PM 2 A. Yes.

01:29PM 3 Q. Describe what thoughts were going through your head.

01:29PM 4 A. Well, it was startling. First -- there were a lot of

01:29PM 5 thoughts.

01:29PM 6 Q. You were thinking about your future, correct?

01:29PM 7 A. Correct.

01:29PM 8 Q. You were thinking about the people who were closest to

01:29PM 9 you?

01:29PM 10 A. Correct.

01:29PM 11 Q. You were hoping you weren't going to go to jail?

01:29PM 12 A. Correct.

01:29PM 13 Q. You were hoping maybe you could keep your job, correct?

01:29PM 14 A. I knew -- well, the thought was going through my mind

01:29PM 15 that I'd have to resign.

01:29PM 16 Q. Okay. And you resigned that day?

01:29PM 17 A. I resigned that day.

01:29PM 18 Q. Yeah. You went into work, and you resigned, correct?

01:29PM 19 A. After I called my attorney, yes.

01:29PM 20 Q. Okay. And because you had some law enforcement training,

01:29PM 21 you did have law enforcement training before that, correct?

01:30PM 22 A. I did, correct?

01:30PM 23 Q. We talked about that.

01:30PM 24 And immediately, you met with the people that were

01:30PM 25 searching your house, correct?

01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM  
01:30PM

1 A. Not immediately. I mean the few days later it was on  
2 the --  
3 Q. Well, that day, you consented to a search of your cell  
4 phone, correct?  
5 A. Correct.  
6 Q. And you gave some statements to law enforcement, correct?  
7 A. Correct.  
8 Q. You told them some information, correct?  
9 A. Correct.  
10 Q. All right. Even though you understood you had a right to  
11 remain silent, correct?  
12 A. Correct. It was general information.  
13 Q. Okay. But you shared that information with them,  
14 correct?  
15 A. Yes.  
16 Q. And then you made arrangements to meet with them again on  
17 Monday, correct?  
18 A. Yes, with my attorney.  
19 Q. Yeah. Because the search was on a Friday morning,  
20 correct?  
21 A. Correct.  
22 Q. Okay. So you didn't hesitate to cooperate, correct?  
23 A. I didn't hesitate to speak to them, no.  
24 Q. In fact, you were eager to speak with them, correct?  
25 A. I wanted to speak to them, yes.

01:30PM 1 Q. Yeah. Yeah. Over the weekend, you were thinking through  
01:30PM 2 all these issues on Saturday and Sunday, correct?

01:30PM 3 A. Correct.

01:30PM 4 Q. You're worried about your future, correct?

01:31PM 5 A. Correct.

01:31PM 6 Q. You were worried about whether or not you're gonna get  
01:31PM 7 charged with a crime, correct?

01:31PM 8 A. Correct.

01:31PM 9 Q. You're worried about whether or not you're gonna go to  
01:31PM 10 prison, correct?

01:31PM 11 A. Sure, correct.

01:31PM 12 Q. You're thinking about the people who are close to you?

01:31PM 13 A. Correct.

01:31PM 14 Q. You're thinking about what impact that would have on them  
01:31PM 15 if you had to go to prison, correct?

01:31PM 16 A. Correct.

01:31PM 17 Q. You're thinking about your family?

01:31PM 18 A. Correct.

01:31PM 19 Q. All right. And so then you went ahead and you met with  
01:31PM 20 law enforcement on August 26th of 2019 at the U.S. Attorney's  
01:31PM 21 Office, correct?

01:31PM 22 A. Correct.

01:31PM 23 Q. That was the first time that you sat down to cooperate,  
01:31PM 24 correct?

01:31PM 25 A. That's correct.

01:31PM 1 Q. And you knew from your law enforcement training that it  
01:31PM 2 was important to be truthful, correct?

01:31PM 3 A. Correct.

01:31PM 4 Q. And honest, correct?

01:31PM 5 A. Correct.

01:31PM 6 Q. And you also knew that you'd get more cooperation credit  
01:31PM 7 if you shared more information, correct?

01:31PM 8 A. That's correct.

01:31PM 9 Q. And that's consistent with the cooperation agreement,  
01:31PM 10 right?

01:31PM 11 A. Correct.

01:31PM 12 Q. The agreement you have in place now, correct?

01:31PM 13 A. Correct.

01:31PM 14 Q. The more you give, the more you get, right?

01:32PM 15 A. I guess. I'm not sure. Nothing's been guaranteed.

01:32PM 16 Q. Right. Well, you wouldn't be here today if you didn't  
01:32PM 17 think was gonna help you, would you?

01:32PM 18 A. Correct.

01:32PM 19 Q. You're not enjoying this, correct?

01:32PM 20 A. Correct.

01:32PM 21 Q. All right. And you've done this a couple of times now,  
01:32PM 22 right?

01:32PM 23 A. Correct.

01:32PM 24 Q. In other matters, correct?

01:32PM 25 A. Correct.

01:32PM 1 Q. Okay. Now, you met with law enforcement on August 26th,  
01:32PM 2 2019 with your lawyer, right?

01:32PM 3 A. Correct.

01:32PM 4 Q. Okay. And so I don't want to get into the substance of  
01:32PM 5 the conversation, but you knew you that part of the proffer  
01:32PM 6 was being honest, correct?

01:32PM 7 A. Correct.

01:32PM 8 Q. And you were not honest, right?

01:32PM 9 A. Not fully at that point, no.

01:32PM 10 Q. No. Because later, on direct, they talk about how on  
01:32PM 11 September 4th, you had a polygraph exam you that failed,  
01:32PM 12 correct?

01:32PM 13 A. That's correct.

01:32PM 14 Q. Okay. And so at the first proffer, you were not honest,  
01:32PM 15 correct?

01:32PM 16 A. Correct.

01:32PM 17 Q. All right. And that's a crime, correct?

01:32PM 18 A. Well, we would -- more information was coming out.

01:33PM 19 Q. Okay. More information was coming out as they confronted  
01:33PM 20 you with it, right?

01:33PM 21 A. Correct.

01:33PM 22 Q. Yeah. You would give one set of facts, correct?

01:33PM 23 A. Correct.

01:33PM 24 Q. And then the prosecutors would confront you with another  
01:33PM 25 set of facts, correct?

01:33PM

1 A. Correct.

01:33PM

2 Q. Okay. And ultimately, it came out that be were being

01:33PM

3 untruthful, correct?

01:33PM

4 A. On the polygraph, yes.

01:33PM

5 Q. Yeah. Now they didn't charge you with obstruction that

01:33PM

6 the time, correct?

01:33PM

7 A. No.

01:33PM

8 Q. No. They didn't charge you with making a false statement

01:33PM

9 at that time, correct?

01:33PM

10 A. No.

01:33PM

11 Q. They met with you further, correct?

01:33PM

12 A. Correct.

01:33PM

13 Q. All right. They met with you again -- so we talked about

01:33PM

14 August 26th of 2019, and then you took that polygraph on

01:33PM

15 September 4th, 2019, correct?

01:33PM

16 A. Correct.

01:33PM

17 Q. And then you met with them again on September 19th, 2019?

01:33PM

18 A. That's correct.

01:33PM

19 Q. And then you met with them again on October 1st, 2019,

01:33PM

20 correct?

01:33PM

21 A. That's correct.

01:33PM

22 Q. And you met with them again on October 3rd, 2019,

01:33PM

23 correct?

01:33PM

24 A. That's correct.

01:33PM

25 Q. And you with met with them again on October 25th, 2019,



01:34PM 1 correct?

01:34PM 2 A. That's correct.

01:34PM 3 Q. Okay. And then eventually, you got into that cooperation  
01:34PM 4 agreement in May of 2020, correct?

01:34PM 5 A. Correct.

01:34PM 6 Q. And you recall that. You came down to the U.S.

01:34PM 7 Attorney's Office with your attorney, correct?

01:34PM 8 A. That's correct.

01:34PM 9 Q. And then they had a further interview with you that day  
01:34PM 10 too?

01:34PM 11 A. That's correct.

01:34PM 12 Q. Okay. Now, these interviews, who are you meeting with  
01:34PM 13 during the course of these interviews? Who do you recall?

01:34PM 14 A. The U.S. Attorney and their teams.

01:34PM 15 Q. Okay. And so what specific individuals?

01:34PM 16 A. U.S. Attorney Joe Tripi.

01:34PM 17 **MR. TRIPI:** Assistant. Assistant.

01:34PM 18 **THE WITNESS:** Assistant, I'm sorry.

01:34PM 19 **MR. TRIPI:** Don't promote me.

01:34PM 20 **THE WITNESS:** Brian Burns. Marilyn Halliday.

01:34PM 21 Nicholas Cooper.

01:34PM 22 **BY MR. SOEHNLEIN:**

01:34PM 23 Q. Is there anybody sitting at the two tables behind me  
01:34PM 24 today that you didn't meet with in the course of your  
01:34PM 25 cooperation?

01:34PM 1 A. I believe so, yes.

01:34PM 2 Q. You met with all of them, correct?

01:34PM 3 A. Yes.

01:34PM 4 Q. Those are the people who were in the room, correct?

01:34PM 5 A. Yes.

01:35PM 6 Q. And there were some additional agents as well at certain

01:35PM 7 times, correct?

01:35PM 8 A. Yes.

01:35PM 9 Q. So, you get that cooperation agreement in May 2020

01:35PM 10 correct?

01:35PM 11 A. Correct.

01:35PM 12 Q. Correct? And then you meet with them again in September

01:35PM 13 of 2020, correct?

01:35PM 14 A. Correct.

01:35PM 15 Q. Okay. And then you meet with them again in March of

01:35PM 16 2021, correct? On March 4th?

01:35PM 17 A. Correct.

01:35PM 18 Q. And you meet with them again on March 10th of 2021,

01:35PM 19 correct?

01:35PM 20 A. Correct.

01:35PM 21 Q. And then you meet with them on August 18th of 2023,

01:35PM 22 correct?

01:35PM 23 A. Correct.

01:35PM 24 Q. And then you meet with them on August 30th of 2023,

01:35PM 25 correct?

25	A. Correct.
----	-------------

01:36PM 1 Q. And then you met with them again in connection with this  
01:36PM 2 testimony, correct?

01:36PM 3 A. With this?

01:36PM 4 Q. Yeah.

01:36PM 5 A. No.

01:36PM 6 Q. No? You haven't had any further meetings with them?

01:36PM 7 A. No.

01:36PM 8 Q. Okay. Now, in the time that you're having those  
01:36PM 9 meetings, you understood that the more information you share,  
01:36PM 10 the more you get out of cooperation, correct?

01:36PM 11 A. I guess.

01:36PM 12 Q. Yeah.

01:36PM 13 A. Correct.

01:36PM 14 Q. Well, it -- and you were trying to get as much  
01:36PM 15 cooperation credit as you could, correct?

01:36PM 16 A. I was being honest with them.

01:36PM 17 Q. Okay. And sharing all the information that you knew,  
01:36PM 18 correct?

01:36PM 19 A. Yes.

01:36PM 20 Q. And trying to be honest, correct?

01:36PM 21 A. I was.

01:36PM 22 Q. Although, well -- not fully honest, right?

01:36PM 23 A. Well --

01:36PM 24 Q. A swing and a miss the first time, right?

01:36PM 25 A. As we went further on, yes, it started, correct.

01:36PM 1 Q. All right. So I want to turn our attention just briefly.

01:37PM 2 You had some testimony about some statements with respect

01:37PM 3 to Anthony Gerace and a conversation you had with Joe

01:37PM 4 Bongiovanni; do you recall those statements?

01:37PM 5 A. Yes.

01:37PM 6 Q. Do you ever recall that testimony, correct?

01:37PM 7 A. Yes.

01:37PM 8 Q. All right. Now, you were an Erie County Sheriff's deputy

01:37PM 9 for a period of time, correct?

01:37PM 10 A. Correct.

01:37PM 11 Q. You went through the academy, correct?

01:37PM 12 A. Correct.

01:37PM 13 Q. And you understood that most things that are done in law

01:37PM 14 enforcement are documented, correct?

01:37PM 15 A. Correct.

01:37PM 16 Q. Usually if you interview a suspect, there's some sort of

01:37PM 17 report that's generated?

01:37PM 18 A. Yes.

01:37PM 19 Q. If there's a person of interest in respect to an

01:37PM 20 incident, usually there's something that's generated, right?

01:37PM 21 A. Correct.

01:37PM 22 Q. Because in law enforcement, not document means not done,

01:37PM 23 right?

01:37PM 24 A. Correct.

01:37PM 25 Q. Everything that law enforcement does is documented in

01:37PM 1 some way, shape, or form, correct?

01:37PM 2 A. Correct.

01:37PM 3 Q. To your knowledge, correct?

01:37PM 4 A. To my knowledge.

01:37PM 5 Q. And you were in law enforcement, correct?

01:37PM 6 A. Yes.

01:37PM 7 Q. Okay. At any point in time, have you ever seen a report

01:38PM 8 of Anthony Gerace having interaction with the Amherst Police

01:38PM 9 Department?

01:38PM 10 A. Did I ever see a report? No.

01:38PM 11 Q. You've never seen that?

01:38PM 12 A. No.

01:38PM 13 Q. All right. But from your knowledge, would that

01:38PM 14 information be readily available?

01:38PM 15 **MR. TRIPI:** Objection. 602.

01:38PM 16 **THE COURT:** Overruled.

01:38PM 17 **THE WITNESS:** I would not have readily availability  
01:38PM 18 of that.

01:38PM 19 **BY MR. SOEHNLEIN:**

01:38PM 20 Q. No. But to law enforcement, it would be available  
01:38PM 21 correct?

01:38PM 22 **MR. TRIPI:** Objection. Now we're arguing with the  
01:38PM 23 witness.

01:38PM 24 **THE COURT:** Overruled.

25

1 BY MR. SOEHNLEIN:

2 Q. To law enforcement --

3 A. To law enforcement it would be, yes.

4 Q. Yeah. They'd be able to make a call or make a request

5 and get that information, right?

6 A. Correct.

7 Q. It wouldn't be hard to find, right?

8 A. Correct.

9 Q. Okay. Now, you had some testimony about

0 Mr. Bongiovanni's child support and alimony; do you remember

1 that?

2 A. Yes.

3 Q. Okay. Now, and you're divorced yourself, correct?

4 A. I am.

5 Q. Child-support payments are either an agreement between

6 the parties or set by the Court?

7 A. Correct.

8 Q. And both parties usually have attorneys, correct?

9 A. Correct.

0 Q. And Mr. Bongiovanni had an attorney?

1 A. I believe so, yes.

2 Q. Yeah. And his wife had an attorney as well?

3 A. Yes.

4 Q. Okay. And so to your understanding, those agreements

5 generally look at a person's income, correct?

01:39PM 1 A. Correct.

01:39PM 2 Q. And their earning potential, correct?

01:39PM 3 A. Correct.

01:39PM 4 Q. That's usually how the amount is set, correct?

01:39PM 5 A. That's correct.

01:39PM 6 Q. Okay. All right. I want to ask you some questions about

01:39PM 7 that Cabo wedding. Do you recall there was some -- there was

01:39PM 8 some testimony about you going --

01:39PM 9 A. Yes.

01:39PM 10 Q. -- to Cabo. Now you were Mr. Bongiovanni's best friend,

01:39PM 11 correct?

01:39PM 12 A. Yes, we were close, yes.

01:39PM 13 Q. Yeah. Well, best friends, right?

01:39PM 14 A. Yes.

01:39PM 15 Q. You considered him your best friend, correct?

01:39PM 16 A. Yes.

01:39PM 17 Q. Different than a normal friendship, best friends, right?

01:39PM 18 A. Correct.

01:39PM 19 Q. And you were the best man at that wedding, correct?

01:39PM 20 A. Yes.

01:39PM 21 Q. Okay. And you traveled to Cabo, right?

01:39PM 22 A. Yes.

01:39PM 23 Q. And other people traveled to Cabo, correct?

01:39PM 24 A. Yes.

01:39PM 25 Q. Okay. And Mr. Gerace did not go to Cabo, did he?



01:39PM

1 A. No.

01:39PM

2 Q. He was not there --

01:39PM

3 A. He was not.

01:39PM

4 Q. -- correct? Yeah.

01:40PM

5 Now, I think that you also had some testimony about some

01:40PM

6 trips that you thought that Mr. Bongiovanni took with

01:40PM

7 Mr. Gerace; do you recall that testimony?

01:40PM

8 A. Yes.

01:40PM

9 Q. And I think that -- that you said that one of the trips

01:40PM

10 was to Toronto; do you recall that?

01:40PM

11 A. Yes.

01:40PM

12 Q. You don't know that though, right?

01:40PM

13 A. I don't know that, but I -- I'm going by what

01:40PM

14 Mr. Bongiovanni had told me they had traveled together.

01:40PM

15 Q. Okay. Well, you recall that picture that Mr. Tripi

01:40PM

16 showed you that was kind of in a hotel lobby; do you remember

01:40PM

17 that?

01:40PM

18 A. I believe that was in Las Vegas, if I'm not mistaken.

01:40PM

19 Q. You believe that that one was in Las Vegas?

01:40PM

20 A. I don't know. That's one of the places he said they

01:40PM

21 traveled to.

01:40PM

22 Q. Okay. I'm talking about the one that's just all guys.

01:40PM

23 A. Yes, I don't know where the was at.

01:40PM

24 Q. All right. Mr. Gerace is not in that photo, right?

01:40PM

25 A. No, correct.

01:40PM 1 Q. You don't know where that photo was taken?

01:40PM 2 A. I don't, no.

01:40PM 3 Q. You don't know where that trip was to?

01:40PM 4 A. I don't.

01:40PM 5 Q. You know Mr. Gerace -- Peter Gerace was not there?

01:41PM 6 A. He was not in that photo, correct.

01:41PM 7 Q. Okay. We had some testimony last time we were here

01:41PM 8 whenever that was, a couple days ago, about respect growing

01:41PM 9 up, correct; do you recall that?

01:41PM 10 A. Yes.

01:41PM 11 Q. Conversations that you had had with Mr. Bongiovanni when

01:41PM 12 you were kids, correct?

01:41PM 13 A. Correct.

01:41PM 14 Q. All right. And fair to say those conversations were like

01:41PM 15 40 years ago, right?

01:41PM 16 A. Yeah, correct. Kids.

01:41PM 17 Q. These are conversations when you're in grammar school and

01:41PM 18 high school, correct?

01:41PM 19 A. Teenagers, yes.

01:41PM 20 Q. Yeah. Yeah. And -- and in -- in your upbringing, was it

01:41PM 21 important to respect your elders?

01:41PM 22 A. Yes.

01:41PM 23 Q. Was it important to be a gentleman?

01:41PM 24 A. Yes.

01:41PM 25 Q. Was it important to respect people who were known in the

01:41PM 1 community?

01:41PM 2 A. Yes.

01:41PM 3 Q. Was it important to the respect law enforcement?

01:41PM 4 A. Yes.

01:41PM 5 Q. Did you also respect sports stars and celebrities and

01:41PM 6 things like that?

01:41PM 7 A. Sure.

01:41PM 8 Q. Yeah. And Mr. Bongiovanni did all those things too,

01:42PM 9 correct?

01:42PM 10 A. Yes.

01:42PM 11 Q. He was a gentleman, right?

01:42PM 12 A. Yes.

01:42PM 13 Q. He wasn't mean to anybody, correct?

01:42PM 14 A. No.

01:42PM 15 Q. Now, there's some conversations -- strike that.

01:42PM 16 There was some testimony about Mr. Bongiovanni apparently

01:42PM 17 telling you to act like an informant, correct?

01:42PM 18 A. Correct.

01:42PM 19 Q. Now, he never told you that he told Mr. Gerace to act

01:42PM 20 like an informant, correct?

01:42PM 21 A. No.

01:42PM 22 Q. He never told you that, correct?

01:42PM 23 A. No.

01:42PM 24 Q. Okay. And that conversation with respect to his brother,

01:42PM 25 he told you that Peter had called him about Amherst, correct?

01:42PM 1 A. Correct.

01:42PM 2 Q. Peter didn't tell him what to do with respect to Amherst,

01:42PM 3 correct?

01:42PM 4 A. He said he asked for help.

01:42PM 5 Q. Okay. Just asked for help, correct?

01:42PM 6 A. That's correct.

01:42PM 7 Q. He asked for help, right?

01:42PM 8 A. Right, correct.

01:42PM 9 Q. Now, when you were in Erie County Sheriff's deputy, did

01:43PM 10 you know that other deputies would have friends or family

01:43PM 11 reach out to them for help?

01:43PM 12 A. Yes.

01:43PM 13 Q. Was that something that was commonplace?

01:43PM 14 A. Sure, if somebody -- yes.

01:43PM 15 Q. Okay. And they'd help out for -- or, strike that.

01:43PM 16 They would reach out for traffic matters maybe?

01:43PM 17 A. It -- yeah, I mean, it could be a few things, yes.

01:43PM 18 Q. Yeah. Any number of things, right?

01:43PM 19 A. Right.

01:43PM 20 Q. People have contact with law enforcement, and they call

01:43PM 21 someone they know in law enforcement for help, correct?

01:43PM 22 A. Correct.

01:43PM 23 Q. And when you were a sheriff's deputy, no one told that

01:43PM 24 all that was improper, correct?

01:43PM 25 A. Correct.

01:43PM 1 Q. That was commonplace, right?

01:43PM 2 A. I don't know if it was commonplace, no one ever told me  
01:43PM 3 it was, you know, wrong.

01:43PM 4 Q. Okay. But when you learned about it, it didn't raise any  
01:43PM 5 red flags for you, correct?

01:43PM 6 A. No.

01:43PM 7 Q. Okay. Now, we talked a little bit about the importance  
01:43PM 8 much being honest; do you recall that testimony?

01:43PM 9 A. Yes.

01:43PM 10 Q. And the importance of being candid in your cooperation,  
01:43PM 11 correct?

01:44PM 12 A. Correct.

01:44PM 13 Q. And we talked about how -- how it was important that --  
01:44PM 14 important to you early on to share all the information that  
01:44PM 15 you knew in the investigation, correct?

01:44PM 16 A. Correct. What I was asked, yes.

01:44PM 17 Q. Yeah. And in -- in the early parts of the investigation,  
01:44PM 18 they were asking you questions about Mr. Gerace, correct?

01:44PM 19 A. At times, yes.

01:44PM 20 Q. They asked you questions about Pharaoh's, correct?

01:44PM 21 A. Yes.

01:44PM 22 Q. Okay. And -- and you didn't -- strike that.

01:44PM 23 And that started in 2019, we agreed, correct?

01:44PM 24 A. I believe so, yes.

01:44PM 25 Q. Okay. And you didn't share anything with law enforcement

1 about you and Mr. Bongiovanni going to Pharaoh's until  
2 September of 2023, correct?

3 A. I don't recall. I don't remember when. But --

4 Q. Okay. Would reviewing the FBI report refresh your  
5 recollection?

6 A. Yes.

7 **MR. SOEHNLEIN:** Can you show the witness 3540U?

8 **BY MR. SOEHNLEIN:**

9 Q. Okay. You'd agree with me the date on this document is  
10 September 8th, 2023?

11 A. Yes.

12 Q. Okay. Thank you.

13 **MR. SOEHNLEIN:** Ms. Champoux, can you scroll down so  
14 he can review it?

15 I think we have to go down a little further than  
16 that.

17 Maybe a little further than that.

18 Maybe a little further than that. There we go.

19 **BY MR. SOEHNLEIN:**

20 Q. Do you see that right there?

21 A. Yes.

22 Q. Just read it, let me know when you're finished reviewing  
23 it.

24 A. Okay.

25 Q. So you'd agree with me that you shared that information

01:46PM 1 in September of 2023, correct?

01:46PM 2 A. Correct. That's when it was brought up and asked,

01:46PM 3 correct.

01:46PM 4 Q. Well, hold on. But they had been asking you questions

01:46PM 5 about Pharaoh's for four years at that the point in time,

01:46PM 6 correct?

01:46PM 7 A. Not a lot. Just if I was familiar with it, and --

01:46PM 8 Q. But some, right?

01:46PM 9 A. Some, yeah.

01:46PM 10 Q. They asked you some?

01:46PM 11 A. Right.

01:46PM 12 Q. Familiar with it? You're talking about you went there

01:46PM 13 with the guy, right?

01:46PM 14 A. Right.

01:46PM 15 Q. You didn't say that for four years.

01:46PM 16 A. I really wasn't asked if I went there. I'm kind of

01:46PM 17 confused on the question.

01:46PM 18 Q. They asked you if you were familiar with it?

01:46PM 19 A. Yeah. And I told them on two occasions that I went.

01:46PM 20 Q. But they asked you that in 2019.

01:46PM 21 A. They asked me if I was familiar with it.

01:46PM 22 Q. Okay. And you didn't tell them that you had gone there

01:46PM 23 with Bongiovanni until 2023, correct?

01:46PM 24 A. Correct.

01:46PM 25 Q. Four years later, this information comes out that you and

01:46PM 1 Bongiovanni had gone to Pharaoh's, correct?

01:46PM 2 A. Correct.

01:46PM 3 Q. You didn't share it in 2019, right?

01:47PM 4 A. Okay.

01:47PM 5 Q. You didn't share it in 2020?

01:47PM 6 A. No.

01:47PM 7 Q. You didn't share it in 2021 --

01:47PM 8 A. No.

01:47PM 9 Q. -- right? You didn't share it in 2022?

01:47PM 10 A. No.

01:47PM 11 Q. You didn't share it until September of 2023.

01:47PM 12 A. Yeah. I believe that's when it was -- it came up again.

01:47PM 13 Q. All right. Now that's also the same time that you shared

01:47PM 14 this conversation about Anthony Gerace in the park, correct?

01:47PM 15 A. Correct.

01:47PM 16 Q. Now you know that they asked you questions about Anthony

01:47PM 17 Gerace, right?

01:47PM 18 A. Correct.

01:47PM 19 Q. And it comes out four years later, correct?

01:47PM 20 A. No, there was other questions asked before that.

01:47PM 21 Q. Okay. Now, you and Mr. Bongiovanni were best friends,

01:47PM 22 right?

01:47PM 23 A. Yes.

01:47PM 24 Q. Talked to each other almost every day, correct?

01:47PM 25 A. Not every day but, you know, we spoke regularly.



01:47PM 1 Q. Several times a week, correct?

01:47PM 2 A. Yes, a few times a week, yes.

01:47PM 3 Q. You called each other?

01:48PM 4 A. Yes.

01:48PM 5 Q. You texted each other?

01:48PM 6 A. Yes.

01:48PM 7 Q. You went to each other's house?

01:48PM 8 A. On occasion, yes.

01:48PM 9 Q. You worked out together?

01:48PM 10 A. Yes.

01:48PM 11 Q. You went to dinner together?

01:48PM 12 A. Not dinners much, no.

01:48PM 13 Q. You ate meals together?

01:48PM 14 A. Yeah, on occasion.

01:48PM 15 Q. Yeah. All right. And so you were around each other with

01:48PM 16 some frequency, correct?

01:48PM 17 A. Yes.

01:48PM 18 Q. And the only time that you recall him being at Pharaoh's

01:48PM 19 is just these two occasions that you testified to on direct,

01:48PM 20 correct?

01:48PM 21 A. Well, that's with me, when I went him.

01:48PM 22 Q. Okay.

01:48PM 23 A. I was there twice.

01:48PM 24 Q. All right. But you -- but you were around him with a lot

01:48PM 25 of frequency, right?

01:48PM 1 A. Yes.

01:48PM 2 Q. You were his best friend?

01:48PM 3 A. Yes.

01:48PM 4 Q. You were the best man in his wedding, correct?

01:48PM 5 A. Correct.

01:48PM 6 **MR. SOEHNLEIN:** Just a second, Judge.

01:49PM 7 That's all I have. Thank you, Judge.

01:49PM 8 **THE COURT:** Redirect?

01:49PM 9 **MR. TRIPI:** Yes, Judge, thank you.

01:49PM 10

01:49PM 11 **REDIRECT EXAMINATION BY MR. TRIPI:**

01:49PM 12 Q. All right. A few more questions for you, okay?

01:49PM 13 A. Okay.

01:49PM 14 Q. Okay. Just bear with me a minute.

01:49PM 15 All right. I'm gonna sort of start where Mr. Soehnlein

01:49PM 16 did and kind of go in the same order of things, okay?

01:49PM 17 A. Okay.

01:49PM 18 Q. He started with your cooperation agreement. As you sit

01:49PM 19 here today, is there any promise that you have, any wink and

01:49PM 20 a nod, anything like that, that you won't be charged or go to

01:49PM 21 jail?

01:49PM 22 A. No.

01:49PM 23 Q. Has anyone from the government ever said anything

01:49PM 24 different to you?

01:49PM 25 A. No.

01:49PM 1 Q. You have a written agreement, right?

01:49PM 2 A. Correct.

01:49PM 3 Q. And are you required to do anything other than tell the  
01:50PM 4 truth under that agreement?

01:50PM 5 A. That's correct.

01:50PM 6 Q. Does your agreement require it?

01:50PM 7 A. Yes.

01:50PM 8 Q. If you weren't to tell the truth, could you be charged  
01:50PM 9 with more things?

01:50PM 10 A. Yes.

01:50PM 11 Q. If you were to lie in front of this grand jury -- or,  
01:50PM 12 excuse me, jury, you could be charged with perjury?

01:50PM 13 A. Yes, sir.

01:50PM 14 Q. Obstruction of justice?

01:50PM 15 A. Yes.

01:50PM 16 Q. All right. Now, you were asked about more cooperation  
01:50PM 17 and all that. Fair to say you've also testified before a  
01:50PM 18 federal grand jury and in other proceedings?

01:50PM 19 A. Yes.

01:50PM 20 Q. Fair to say that the scope of your testimony and  
01:50PM 21 information you've provided spans well beyond Defendant  
01:50PM 22 Gerace?

01:50PM 23 A. Yes.

01:50PM 24 Q. Now, when you were first approached by law enforcement at  
01:50PM 25 your house the day of that search warrant, August 23rd, 2019,

01:50PM 1 did you start to talk a little bit about Mr. Bongiovanni?

01:50PM 2 A. Yes. Very --

01:51PM 3 Q. At that point, it wasn't everything you knew?

01:51PM 4 A. No. No.

01:51PM 5 Q. Did you withhold information like Mr. Soehnlein said?

01:51PM 6 A. Yes.

01:51PM 7 Q. And I think you tried to articulate it, but as time went

01:51PM 8 on, did you provide more and more information?

01:51PM 9 A. Yes.

01:51PM 10 Q. Were you asked more and more questions?

01:51PM 11 A. I was.

01:51PM 12 Q. Now, Mr. Soehnlein focused you in on that September 4th,

01:51PM 13 2019 polygraph, and talked about you failing.

01:51PM 14 I'm just gonna ask you directly. Did you fail because

01:51PM 15 you claimed you were Joe Bongiovanni's informant?

01:51PM 16 A. Yes.

01:51PM 17 Q. Okay. That was a lie?

01:51PM 18 A. It was a lie.

01:51PM 19 Q. That was a lie that Bongiovanni fed you?

01:51PM 20 A. Right.

01:51PM 21 Q. And you tried to carry through on it?

01:51PM 22 A. Correct.

01:51PM 23 Q. After that, did you become more and more forthcoming?

01:51PM 24 A. I did.

01:51PM 25 Q. Does that lead to your sitting in this witness stand?

01:51PM 1 A. It does.

01:51PM 2 Q. Now, Mr. Soehnlein crossed you about all your meetings  
01:52PM 3 with the government from August 23rd, 2019 to October 25th,  
01:52PM 4 2019; do you remember that?

01:52PM 5 A. Yes.

01:52PM 6 Q. You went through all those dates up through that point.  
01:52PM 7 All of those meetings were before Mr. Bongiovanni was  
01:52PM 8 charged, correct?

01:52PM 9 A. Correct.

01:52PM 10 Q. And did you testify in grand jury before Mr. Bongiovanni  
01:52PM 11 was charged?

01:52PM 12 A. Yes.

01:52PM 13 Q. And all those meetings, did they cover a lot more  
01:52PM 14 information than the questions you're being asked at this  
01:52PM 15 trial?

01:52PM 16 A. Yes.

01:52PM 17 Q. Now, let's switch over, talk a little bit about Anthony  
01:52PM 18 Gerace's arrest, and your discussions along those lines,  
01:52PM 19 okay?

01:52PM 20 You were asked about the fact that you're an Erie County  
01:52PM 21 sheriff, and are things documented in law enforcement; do you  
01:52PM 22 remember those general questions?

01:52PM 23 A. Yes.

01:52PM 24 Q. Now you're not a member of the Amherst Police Department,  
01:52PM 25 right?

01:52PM 1 A. I was not, no.

01:52PM 2 Q. Would you have access to anything that they generate?

01:52PM 3 A. No.

01:53PM 4 Q. Okay. Now, do you know whether Bongiovanni squashed any  
01:53PM 5 arrest of Anthony Gerace before it ever happened?

01:53PM 6 **MR. SOEHNLEIN:** Objection.

01:53PM 7 **MR. TRIPI:** He opened this door.

01:53PM 8 **THE COURT:** Does he know?

01:53PM 9 **MR. SOEHNLEIN:** Yeah, I withdraw it. I thought the  
01:53PM 10 question came out a little differently.

01:53PM 11 **BY MR. TRIPI:**

01:53PM 12 Q. Do you know whether Bongiovanni squashed any arrest of  
01:53PM 13 Anthony Gerace before it ever happened?

01:53PM 14 A. No.

01:53PM 15 Q. If Bongiovanni squashed an investigation before it was  
01:53PM 16 documented, there would be no report?

01:53PM 17 **MR. SOEHNLEIN:** Objection.

01:53PM 18 **THE COURT:** Sustained, sustained, sustained.

01:53PM 19 **BY MR. TRIPI:**

01:53PM 20 Q. Okay. Now you were asked about finances; do you remember  
01:53PM 21 that?

01:53PM 22 A. Yes.

01:53PM 23 Q. Mr. Bongiovanni's finances?

01:53PM 24 In your commonsense life experience, the money that you  
01:53PM 25 were earning from illegal activity, did you put your illegal

1 money in the bank and report it?

2 A. No.

3 Q. Okay. In your commonsense life experience, do people put  
4 money from illicit gains into the bank and then report it to  
5 their attorney?

6 A. No.

7 Q. You were asked about respect to elders and respect to  
8 athletes and stuff like that. Was the type of respect you  
9 were talking about yesterday when you were talking about  
10 Mr. Bongiovanni showing respect to reputed Italian Organized  
11 Crime members in the neighborhood, was it a different type of  
12 respect?

13 A. Yes.

14 Q. It's not the same hold-the-door-for-an-old-lady type  
15 respect, right?

16 A. No.

17 Q. Back to the topic of helping people through his position  
18 as a DEA agent. You were asked questions about you didn't  
19 know what Bongiovanni meant when he said helping Anthony  
20 Gerace when Peter asked him to help Anthony Gerace, and you  
21 were asked some questions about law enforcement and whether  
22 you were asked to help people; do you remember that?

23 A. Yes.

24 Q. All those questions?

25 A. Yes.

Q. As you sit here, given your life experience and your interactions with Mr. Bongiovanni, is a sworn DEA agent supposed to help individuals involved in drug dealing, or arrest them?

A. Arrest them.

Q. You were asked a lot of questions about whether the first time you mentioned Peter Gerace was in September of 2023 after four years of questions; do you remember that?

A. Yes.

Q. Do you remember all the times that you were asked questions and mentioned Mr. Gerace or Pharaoh's?

A. I don't.

Q. Okay. I'm gonna ask you to take a look at Government Exhibit 3540I. Let's start with page 1.

**MR. TRIPI:** For the witness only.

**BY MR. TRIPI:**

Q. All right. Just look at your screen. And when you're done, look back at me. I'm gonna keep it up just because I'm gonna walk through this a bit, but want you to not look at the screen initially. Okay?

Does that refresh your recollection as to a date that you had an interview?

A. Yes.

Q. Okay. You've got to look back at me.

A. Yes.



1 Q. Is that September 11th, 2019?

2 A. Yes.

3 Q. All right.

4 **MR. TRIPI:** Ms. Champoux, can we advance to page 6 of  
5 that, please?

6 **BY MR. TRIPI:**

7 Q. Okay. We're gonna go to -- I want you to read page 6  
8 through 7. Let us know when you're done reading page 6  
9 through 7.

10 A. Where you've highlighted at the bottom?

11 Q. Yep.

12 A. Okay.

13 **MR. TRIPI:** Let's go to page 7, please.

14 **BY MR. TRIPI:**

15 Q. Read that to yourself.

16 A. Okay.

17 Q. Okay. To the extent you were just asked questions about  
18 not talking about Peter Gerace for four years, was that  
19 accurate?

20 A. No.

21 Q. Okay. Did you talk about Peter Gerace back on  
22 September 11th, 2019?

23 A. Yes.

24 Q. Did you -- look at me, please.

25 A. Yes, sir.

01:59PM 1 Q. Did you talk about Pharaoh's?

01:59PM 2 A. Yes.

01:59PM 3 Q. Did you talk about Anthony Gerace?

01:59PM 4 A. Yes.

01:59PM 5 Q. Okay. Do you remember the next date you provided some

01:59PM 6 information about them?

01:59PM 7 A. I don't.

01:59PM 8 Q. Okay. Be fair to say a lot of the questioning early on

01:59PM 9 particularly was focused on Mr. Bongiovanni, though?

01:59PM 10 A. Yes.

01:59PM 11 Q. And then as time went on, it shifted to other people?

01:59PM 12 A. Yes.

01:59PM 13 Q. Okay. We agree that September 11th, 2019, is four years

01:59PM 14 earlier than September of 2023 that you were being asked

01:59PM 15 questions about, correct?

02:00PM 16 A. Correct.

02:00PM 17 Q. Okay. Now, over time, too, did things occur to you over

02:00PM 18 time?

02:00PM 19 A. Yes.

02:00PM 20 Q. Were some of those things that occurred to you over time

02:00PM 21 triggered by more specific questions you were asked?

02:00PM 22 A. Exactly, yes.

02:00PM 23 Q. Okay. Do you remember everything you talked about on a

02:00PM 24 meeting March 10th, 2021?

02:00PM 25 A. No.

02:00PM 1 Q. Okay. If we can go to Exhibit 3540M, please as in Mary.

02:00PM 2 And we'll go to page 2. Read that to yourself, page 2. Let

02:01PM 3 us know when you want us to move to page 3.

02:01PM 4 A. Okay.

02:01PM 5 **MR. TRIPI:** Can we go to page 3, please?

02:03PM 6 **THE WITNESS:** Okay.

02:03PM 7 **BY MR. TRIPI:**

02:03PM 8 Q. Did you provide information about Peter and Anthony

02:03PM 9 Gerace during that meeting in March of 2021?

02:03PM 10 A. Yes.

02:03PM 11 Q. Okay. Now, do you remember, Mr. Selva, do you remember

02:03PM 12 what specific questions you were being asked?

02:03PM 13 A. I don't.

02:03PM 14 Q. Do you remember if you were asked, hey, did you ever go

02:03PM 15 to Pharaoh's with Bongiovanni?

02:03PM 16 A. I don't know.

02:03PM 17 Q. Do you know when the first time you were asked that

02:03PM 18 specific question was?

02:03PM 19 A. I don't.

02:03PM 20 Q. Okay. Had that specific question been asked about you

02:03PM 21 and -- of you in September of 2019, would you have said two

02:03PM 22 times, just like you told this jury?

02:03PM 23 A. Yes.

02:03PM 24 **MR. TRIPI:** All right, Judge, I have no further

02:03PM 25 redirect.

02:03PM 1 **THE COURT:** Anything more, Mr. Soehnlein?

02:03PM 2 **MR. SOEHNLEIN:** Just briefly.

02:03PM 3

02:03PM 4 **RECROSS-EXAMINATION BY MR. SOEHNLEIN:**

02:03PM 5 Q. Mr. Tripi just asked you if you had been asked that  
02:03PM 6 question in September of 2019, the answer would have been two  
02:04PM 7 times, right? He just asked you that question?

02:04PM 8 A. Yes.

02:04PM 9 Q. Okay.

02:04PM 10 **MR. SOEHNLEIN:** Can you show the witness 3540I,  
02:04PM 11 page 6, please.

02:04PM 12 **BY MR. SOEHNLEIN:**

02:04PM 13 Q. And reviewing these reports, it's refreshing your memory,  
02:04PM 14 right?

02:04PM 15 A. Correct.

02:04PM 16 Q. And by the way, so, you'd agree with me that this is a  
02:04PM 17 report from September of 2019, correct?

02:04PM 18 A. Correct.

02:04PM 19 Q. The exact same time period that Mr. Tripi was just asking  
02:04PM 20 you about, correct?

02:04PM 21 A. That's correct.

02:04PM 22 Q. Can you just review the second line up what's written  
02:04PM 23 right there?

02:04PM 24 A. Second line up?

02:04PM 25 Q. Yeah, the second line from the bottom. What's it say?

02:04PM 1 Well, does it refresh your recollection.

02:04PM 2 A. Yes.

02:04PM 3 Q. You told them Bongiovanni never went to Pharaoh's?

02:04PM 4 A. In 2019.

02:04PM 5 Q. In 2019, you told them Bongiovanni never went to

02:04PM 6 Pharaoh's, correct?

02:05PM 7 A. Correct.

02:05PM 8 Q. And in 2023, you told them that you went there with him

02:05PM 9 two times, correct?

02:05PM 10 A. Correct.

02:05PM 11 Q. So you lied in 2019?

02:05PM 12 A. No, he -- I -- I was referencing with me he went. He

02:05PM 13 went with me.

02:05PM 14 Q. So, when he went with you, that doesn't mean he went?

02:05PM 15 A. No, that's how I was answering the question, he went with

02:05PM 16 me.

02:05PM 17 Q. He went with you?

02:05PM 18 A. Right.

02:05PM 19 Q. But in 2019, you told them he didn't go at all?

02:05PM 20 A. Not with me in 2019, that's how I was referencing the

02:05PM 21 question.

02:05PM 22 Q. I'm sorry, but you said he never went at all in 2019,

02:05PM 23 correct?

02:05PM 24 A. Right, with --

02:05PM 25 Q. Never went ever, correct?

02:05PM 1 A. I believe the question was phrased if he ever went me.

02:05PM 2 And I --

02:05PM 3 Q. You'd agree with me that's not what's reflected in the  
02:05PM 4 report.

02:05PM 5 A. That's correct.

02:05PM 6 Q. What you said in 2023 is not accurate, is it?

02:05PM 7 A. We went twice in Pharaoh's, him and I.

02:06PM 8 Q. So then what you said in 2019 is a lie?

02:06PM 9 A. It was asked a different way. He never -- I was  
02:06PM 10 referenced if he went with me.

02:06PM 11 Q. It's not confusing, Mr. Selva.

02:06PM 12 A. I understand that --

02:06PM 13 Q. You're wrong --

02:06PM 14 **THE COURT:** One at a time.

02:06PM 15 **BY MR. SOEHNLEIN:**

02:06PM 16 Q. In 2019, you told them he never went to Pharaoh's,  
02:06PM 17 period, correct?

02:06PM 18 A. Correct.

02:06PM 19 Q. And in 2023, you said he went twice with me, correct?

02:06PM 20 A. Correct.

02:06PM 21 Q. So what you said in 2019 was not accurate?

02:06PM 22 A. Not accurate that he went with me.

02:06PM 23 Q. You understand that you have to be truthful and honest in  
02:06PM 24 those meetings?

02:06PM 25 A. I am. Maybe I answered it -- maybe I answered it wrong,

02:06PM 1 but he -- I was there twice with him.

02:06PM 2 Q. Now it's possible that maybe you got a little tripped up  
02:06PM 3 in the questions, right?

02:06PM 4 A. Correct.

02:06PM 5 Q. Okay. Because those meetings, those are kind of high  
02:06PM 6 stress, correct?

02:06PM 7 A. Correct.

02:06PM 8 Q. A lot's on the line, right?

02:06PM 9 A. There's a lot of questions.

02:06PM 10 Q. And you're with the same prosecutors that you're with  
02:07PM 11 here, correct?

02:07PM 12 A. Correct.

02:07PM 13 Q. All right. Now earlier this morning, Mr. Tripi yelled at  
02:07PM 14 you. You recall that, right?

02:07PM 15 A. Yes.

02:07PM 16 Q. That's happened before, hasn't it?

02:07PM 17 A. Yes.

02:07PM 18 Q. That's happened more than once, hasn't it?

02:07PM 19 A. A few times.

02:07PM 20 Q. You're in those meetings, and it's just you and the  
02:07PM 21 prosecutors, right?

02:07PM 22 A. Yes.

02:07PM 23 Q. There's no judge there?

02:07PM 24 A. No.

02:07PM 25 Q. There's no jury there?

02:07PM 1 A. No.

02:07PM 2 Q. And they tell you to tell the truth, right?

02:07PM 3 A. Correct.

02:07PM 4 Q. But they act like that toward you, don't they?

02:07PM 5 A. They act professional.

02:07PM 6 Q. It's not the first time he yelled at you.

02:07PM 7 A. I mean, yelling and raising your voice, I mean, being  
02:07PM 8 direct.

02:07PM 9 Q. Is that how you would describe how he treated you this  
02:07PM 10 morning, being direct?

02:07PM 11 A. Being direct, yes. Raising his voice, yes.

02:07PM 12 Q. That's scared you when he did that, didn't it?

02:07PM 13 A. He got my attention.

02:07PM 14 Q. Yeah, because you've got a lot on the line, right?

02:07PM 15 A. Yes.

02:07PM 16 Q. And you weren't making him happy, were you?

02:08PM 17 **MR. TRIPI:** Objection as to whether he was making me  
02:08PM 18 happy.

02:08PM 19 **THE COURT:** Overruled.

02:08PM 20 **THE WITNESS:** I don't know if I was making him happy  
02:08PM 21 or not. He was just -- that's his demeanor. He was asking me  
02:08PM 22 a direct question.

02:08PM 23 **BY MR. SOEHNLEIN:**

02:08PM 24 Q. That's just his demeanor?

02:08PM 25 A. At times.



02:08PM 1 MR. SOEHNLEIN: That's all I have.

02:08PM 2

02:08PM 3 RE-REDIRECT EXAMINATION BY MR. TRIPI:

02:08PM 4 Q. Sometimes in those meetings, you were lying, right?

02:08PM 5 A. Yes.

02:08PM 6 Q. You were holding back information?

02:08PM 7 A. Yes.

02:08PM 8 Q. Did you expect direct questions when you were lying?

02:08PM 9 A. Yes.

02:08PM 10 Q. Were you doing the wrong thing?

02:08PM 11 A. Yes.

02:08PM 12 Q. When you've been yelled at before, is that because you

02:08PM 13 asked if you were gonna not have to go to jail?

02:08PM 14 A. No.

02:08PM 15 Q. Have I -- have I told you repeatedly your entire

02:08PM 16 agreement is in writing, and there are no promises?

02:08PM 17 A. Yes.

02:08PM 18 Q. When you ask me about that agreement, is that when I get

02:08PM 19 firm with you?

02:08PM 20 A. Yes.

02:08PM 21 Q. Do I remind you your agreement is in writing?

02:08PM 22 A. Yes.

02:08PM 23 Q. And that there are no promises?

02:08PM 24 A. Yes.

02:09PM 25 Q. Have I ever told you to do anything other than tell the

02:09PM 1 truth?

02:09PM 2 A. No.

02:09PM 3 Q. Now, are you a grown man?

02:09PM 4 A. Yes.

02:09PM 5 Q. When you're in those meetings, you're with your lawyer?

02:09PM 6 A. Yes.

02:09PM 7 Q. Do you have any issue with the way I speak with you or

02:09PM 8 the way you speak with me?

02:09PM 9 A. No.

02:09PM 10 Q. Okay. Sometimes do you raise your voice, too?

02:09PM 11 A. Yes.

02:09PM 12 Q. Is that sometimes how grown men speak to each other?

02:09PM 13 A. Yes.

02:09PM 14 Q. Okay. Any issue with that?

02:09PM 15 A. No.

02:09PM 16 Q. Any misconceptions about what you're supposed to say on

02:09PM 17 the stand in terms of truth or not truth?

02:09PM 18 A. No.

02:09PM 19 Q. Okay. Now, you were just shown a report. You didn't

02:09PM 20 write the report that you were shown, you didn't sign the

02:09PM 21 report, correct?

02:09PM 22 A. Correct.

02:09PM 23 Q. But you testified in grand jury about Mr. Gerace and

02:09PM 24 Mr. Bongiovanni, correct?

02:09PM 25 A. Correct.

02:09PM 1 Q. And then you testified at two other proceedings this  
02:09PM 2 year, and you've been consistent about two times you went to  
02:10PM 3 Pharaoh's with Mr. Bongiovanni; is that true?

02:10PM 4 A. That's correct.

02:10PM 5 Q. All right.

02:10PM 6 **MR. TRIPI:** Bear with me just a moment.

02:10PM 7 By the way, is it the U.S. Attorney's Office who  
02:10PM 8 decides your cooperation, or is it me?

02:10PM 9 **MR. SOEHNLEIN:** Objection.

02:10PM 10 **THE COURT:** Sustained.

02:10PM 11 **MR. TRIPI:** He knows the answer to that.

02:10PM 12 **THE WITNESS:** It's the U.S. Attorney.

02:10PM 13 **THE COURT:** Mr. Selva, when I say "sustained," you  
02:10PM 14 don't answer the question.

02:10PM 15 **THE WITNESS:** I'm sorry, Your Honor.

02:10PM 16 **THE COURT:** What's the basis of that?

02:10PM 17 **MR. SOEHNLEIN:** I believe it calls for speculation  
02:10PM 18 and hearsay, Judge.

02:10PM 19 **THE COURT:** So lay a foun -- so the jury will strike  
02:11PM 20 that answer. You can lay a foundation.

02:11PM 21 **BY MR. TRIPI:**

02:11PM 22 Q. Do you know who the ultimate decisionmaker is?

02:11PM 23 A. I don't.

02:11PM 24 Q. Do you think it's me, or someone above me?

02:11PM 25 A. Someone above.

25	A. Yes.
----	---------

02:13PM 1 Q. Were you asked questions about Mr. Bongiovanni?

02:13PM 2 A. Yes.

02:13PM 3 Q. Were you asked questions about Mr. Gerace?

02:13PM 4 A. Yes.

02:13PM 5 Q. Did you answer a number of specific questions you were

02:13PM 6 asked at that time about Mr. Gerace?

02:13PM 7 A. Yes.

02:13PM 8 Q. Did a lot of it cover a lot the same topics you testified

02:13PM 9 to here at trial?

02:13PM 10 A. Yes.

02:13PM 11 **MR. TRIPI:** Nothing further, Judge.

02:13PM 12 **THE COURT:** Anything more?

02:13PM 13 **MR. SOEHNLEIN:** Nothing, Judge. Thank you.

02:13PM 14 **THE COURT:** You can step down, sir, thank you.

02:13PM 15 **THE WITNESS:** Thank you, Your Honor.

02:13PM 16 (Witness excused at 2:13 p.m.)

17 (Excerpt concluded at 2:13 p.m.)

18 \* \* \* \* \*

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**CERTIFICATE OF REPORTER**

In accordance with 28, U.S.C., 753(b), I  
certify that these original notes are a true and correct  
record of proceedings in the United States District Court for  
the Western District of New York on December 13, 2024.

s/ Ann M. Sawyer  
\_\_\_\_\_  
Ann M. Sawyer, FCRR, RPR, CRR  
Official Court Reporter  
U.S.D.C., W.D.N.Y.

TRANSCRIPT INDEX

EXCERPT - EXAMINATION OF LOUIS SELVA - DAY 2

DECEMBER 13, 2024

W I T N E S S

P A G E

L O U I S   S E L V A

2

(CONT'D) DIRECT EXAMINATION BY MR. TRIPI:

2

CROSS-EXAMINATION BY MR. SOEHNLEIN:

102

REDIRECT EXAMINATION BY MR. TRIPI:

130

RECROSS-EXAMINATION BY MR. SOEHNLEIN:

140

RE-REDIRECT EXAMINATION BY MR. TRIPI:

145

E X H I B I T S

P A G E

GOV Exhibit 213-1 through 5

75

GOV Exhibits 208D, 208K

93